

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF TEXAS
3 HOUSTON DIVISION

4 RULFORD G. ALDRIDGE, . Civil Action
5 . No. H-05-608
6 Petitioner, .
7 .
8 VS. .
9 .
10 NATHANIEL QUARTERMAN, .
11 . February 26, 2009
12 Respondent. . 9:00 A.M.
13 . HOUSTON, TEXAS

14 TRANSCRIPT of PROCEEDINGS
15 BEFORE THE HONORABLE GRAY H. MILLER
16 UNITED STATES DISTRICT JUDGE

17 APPEARANCES:

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26 ALSO PRESENT: Mr. Rulford G. Aldridge

27 Proceedings recorded by mechanical stenography, transcript
28 produced by computer-aided transcription.

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2

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PROCEEDINGS

(February 26, 2009)

THE COURT: All right. We are here in Civil Action 5-608, Rulford Aldridge versus Quarterman. And this is a hearing with respect to competency on the habeas petition. Would the attorneys please make their appearances, starting with the attorney for the petitioner.

MR. RYTTING: James Rytting. James Rytting.

THE COURT: Yes, sir.

MR. HILDER: Philip Hilder.

THE PETITIONER: Your Honor, I have an objection. I object to him being referred to as my counsel. I appear pro se.

THE COURT: Okay. They are your counsel.

THE PETITIONER: I appear pro se.

THE COURT: Yes, sir. I understand you're here, but these are your counsel.

THE PETITIONER: I have given Notices of Appeal to you, two Notices of Appeal, two affidavits of bias and two Notices of Appeal. I have a copy here in the bag.

THE COURT: All right, sir. If you are going to be disruptive, I am going to have to remove you from these proceedings. Would you just be quiet for a moment?

Yes, sir?

MR. HILDER: Philip Hilder.

1 THE COURT: All right, sir. And for the respondent?

2 MS. HAYES: Katherine Hayes from the Attorney
3 General's office.

4 THE COURT: All right.

09:11:59AM 5 MS. ODEN: Georgette Oden.

6 THE COURT: All right. Thank you.

7 All right. The schedule, I think my case
8 manager has communicated it to everyone, we are going to go
9 until about 4:15 this afternoon. We'll probably take a lunch
09:12:12AM 10 break around noontime. If we are not finished with the
11 evidence this afternoon, we'll come back tomorrow morning
12 starting at 9:00 o'clock and go until about 1:00 o'clock. If
13 we are still not finished with the evidence at that point,
14 we'll come back on Monday and finish up.

09:12:28AM 15 Do you think that's a reasonable schedule? Do
16 you think we will be finished by Friday at 1:00?

17 MR. RYTTING: Your Honor, I anticipate being
18 finished by Friday at 1:00.

19 THE COURT: All right. All right. Good. Let's
09:12:42AM 20 deal with the exhibits that have been tendered by both sides,
21 starting with the exhibits tendered by the petitioner. I have
22 a copy -- a courtesy copy of all the exhibits up here. I have
23 reviewed the objections filed by the respondent to certain of
24 the petitioner's exhibits. Do you have any other exhibits
09:13:06AM 25 that you want to object to at this time, other than the ones

1 that you have objected to in writing?

2 MS. HAYES: No, Your Honor.

3 THE COURT: All right. I'm going to overrule those
4 objections, and I'm going to admit petitioner's exhibits.

5 (Petitioner's exhibits admitted.)

6 THE COURT: The respondent's exhibits, I don't
7 remember seeing any objections from the petitioner on
8 respondent's exhibits. Are there objections to any of the
9 respondent's exhibits by the petitioner?

09:13:31AM 10 MR. RYTTING: Yes. We did file objections to the
11 respondent's exhibits, Your Honor.

12 THE COURT: All right.

13 MR. RYTTING: Do we have an extra copy?

14 (Pause)

09:14:05AM 15 MR. RYTTING: Your Honor, if I may approach.

16 THE COURT: Yes, you may.

17 Thank you. Let me just briefly...

18 (Pause)

19 THE COURT: All right. I apologize for missing
09:15:09AM 20 this. I'm going to overrule these objections and admit the
21 respondent's exhibits.

22 (Respondent's exhibits admitted.)

23 THE COURT: So, all of the exhibits are going to be
24 admitted into evidence at this time.

09:15:18AM 25 The -- would the petitioner's attorney care to

1 make an opening statement of any kind, or do you want to go
2 directly to the evidence?

3 MR. RYTTING: I'll make a brief statement, Your
4 Honor.

5 THE COURT: All right.

6 MR. RYTTING: And it has to do with the proposed
7 issues for the hearing that we submitted.

8 THE COURT: Yes.

9 MR. RYTTING: I just wanted to clarify that as I
09:15:44AM 10 understand it how this proceeding will go, we believe that the
11 Court will first make a threshold determination about whether
12 there has been some evidence of incompetency at the time of
13 trial submitted by petitioner in the course of these
14 proceedings, of course, and including in the documents that we
09:16:05AM 15 will provide the Court.

16 The standard, I believe, is that if the
17 evidence that was at trial and available to counsel or
18 available to the Judge raised a bona fide doubt, a substantial
19 doubt, about the petitioner's competency, then it was
09:16:21AM 20 obligatory for either the Court or counsel to request a
21 hearing and convene a hearing to determine competency. That
22 wasn't done at trial. I think we will clearly be able to show
23 that we satisfy that standard that there was a substantial
24 doubt raised by the evidence that was available either to
09:16:42AM 25 counsel or to the Court.

1 After that threshold is made, I believe that
2 what the Court has to determine is whether it is even possible
3 to have a retrospective hearing in this case, 19 years after
4 the fact, when we do not have a hearing at trial --
09:17:02AM 5 contemporaneous with trial in which Mr. Aldridge was cleared
6 by the Court, by a psychiatrist, or anyone else that was
7 medically trained to determine his mental status during the
8 proceedings.

9 THE PETITIONER: May I object?

09:17:20AM 10 THE COURT: No, sir, you may not.

11 THE PETITIONER: Misinformation.

12 THE COURT: You may not.

13 Go ahead, sir.

14 MR. RYTTING: If that's the case, then I believe
09:17:27AM 15 that the law is that this Court will have to order a retrial
16 or that this prisoner be released. However, if the Judge does
17 make the determination that today, sitting here 19 years after
18 the fact, it is possible to conduct a hearing, then we go on
19 with the actual determination of competency at the time of
09:17:51AM 20 trial. I do realize that the case law permits sort of -- will
21 permit the Court to hold a hearing that considers these
22 questions, as they are intertwined all at once, and make a
23 determination.

24 THE COURT: And that is my intention. That is what
09:18:09AM 25 we're doing here today. So, that is my intention to address

1 all of those issues in this hearing and then make the
2 determinations after thorough review of all the evidence that
3 is submitted here today.

09:18:21AM 4 MR. RYTTING: Yes, Your Honor. I have nothing
5 further.

6 THE COURT: All right. Thank you.

7 Does the respondent care to make an opening
8 statement of any kind?

9 MS. HAYES: No, Your Honor, not at this time.

09:18:28AM 10 THE COURT: Okay.

11 All right. Call your first witness.

12 MR. RYTTING: May I address one other issue?

13 THE COURT: Yes, sir.

14 MR. RYTTING: We have several other exhibits that we
09:18:38AM 15 would like to mark and admit as we go. They are going to be
16 records from the trial, the trial transcripts. And I'm not
17 sure if there's objections to that or not.

18 MS. HAYES: No, Your Honor.

19 THE COURT: All right. Fine. That's fine.

09:18:54AM 20 MR. RYTTING: My first witness is Douglas Davis.

21 THE COURT: All right. Mr. Davis, would you come
22 forward, please?

23 All right. Raise your right hand, please,
24 Mr. Davis, and --

25 THE WITNESS: Yes, sir.

1 THE COURT: -- be sworn in.

2 (DOUGLAS DAVIS, Petitioner's witness, Sworn.)

3 THE COURT: All right. Have a seat in the witness
4 chair, please.

09:19:29AM 5 THE WITNESS: Thank you.

6 THE COURT: Yes, sir.

7 **DIRECT EXAMINATION**

8 **BY MR. RYTTING:**

9 Q. Mr. Davis, would you identify yourself for the record?

09:19:36AM 10 A. My name is Douglas Davis.

11 Q. And were you the attorney at trial on State versus
12 Aldridge?

13 A. Yes, one of them.

14 Q. And who was the other attorney?

09:19:47AM 15 A. Randy Bates.

16 Q. And at that trial you represented Rulford Aldridge; is
17 that correct?

18 A. Yes.

19 Q. I would like to turn to the -- that issue of mental
09:20:18AM 20 illness in this case. And you recognized at trial that
21 Mr. Aldridge was mentally ill; is that correct?

22 A. Yes. I felt he had mental problems. And so, I requested
23 the Court to allow me to contact a psychiatrist to have him
24 evaluated.

09:20:39AM 25 Q. And who did you hire to conduct the mental health

1 examination of Mr. Aldridge?

2 A. Dr. Walter Quijano.

3 Q. What was Dr. Walter Quijano asked to do for you?

4 A. Basically to evaluate Mr. Aldridge based on records that

09:21:04AM 5 I supplied to Dr. Quijano and to determine whether or not he

6 felt that Mr. Aldridge was competent to stand trial and also

7 to determine whether, in his opinion, Mr. Aldridge -- if there

8 was any question as to his sanity.

9 Q. And did Mr. Quijano produce a report for you?

09:21:30AM 10 A. I believe he did, yes.

11 Q. And that report was also based on a psychological

12 interview of Mr. Aldridge. Is that fair to say?

13 A. I believe Dr. Quijano did interview him. I was not

14 present during that interview.

09:21:45AM 15 Q. Do you recall what date that interview was conducted?

16 A. I have no idea.

17 Q. I would like to refer you to -- it would be Petitioner's

18 Exhibit No. 8.

19 MR. RYTTING: If I may approach the witness?

09:22:37AM 20 THE COURT: You may.

21 BY MR. RYTTING:

22 Q. Mr. Davis, do you recognize this report?

23 A. I'm sure this is probably the report that was supplied to

24 me by Dr. Quijano but, honestly, because this happened some

09:23:14AM 25 19 years ago, I don't have any real independent recollection

1 of it, but I'm sure this is it.

2 Q. Were you able to review this report for your deposition,
3 in this recent deposition in this case?

4 A. I don't recall if I reviewed it or not.

09:23:32AM 5 THE COURT: What exhibit are you on, again?

6 MR. RYTTING: Our Exhibit No. 8.

7 THE COURT: Exhibit No. 8?

8 MR. RYTTING: Which should be the forensic
9 psychological report of Dr. Walter Quijano.

09:23:41AM 10 THE COURT: In my book it's Mr. Davis' affidavit.

11 Exhibit 12 is the report. I'm sorry. I'm in the respondent's
12 exhibits. My fault. I'm sorry.

13 All right. Go ahead.

14 BY MR. RYTTING:

09:24:01AM 15 Q. And if you would read under the section of Mr. --

16 Dr. Quijano's report entitled "procedures."

17 A. "No. 1, clinical interview with defendant on the 26th of
18 March, 1990." Would you like me to keep going?

19 Q. No thanks.

20 A. Okay.

21 Q. And the date that this report was produced was May 15th,
22 1990; is that correct?

23 A. I will take your word for it. I don't remember.

24 Q. And May 15th was the second day of trial in this case.

09:24:37AM 25 Is that consistent with your recollection?

1 A. I don't recollect at all, to be honest with you; but, you
2 know, I'm sure that's in the record.

3 Q. And I believe the record will reflect that
4 guilt/innocence started on May 14th and that the punishment
09:24:57AM 5 was the second day, May 15th, of a two-day trial. Is that
6 consistent with your recollection?

7 A. Again, I don't recollect; but I have no argument with
8 that.

9 Q. So, it is fair to say that you didn't get this report
09:25:10AM 10 until you were in the middle of trial?

11 A. I would say probably so, if that's what the record
12 reflects; but I'm positive that I would have spoken to
13 Dr. Quijano prior to that about this.

14 Q. Do you have any records of any conversations with
09:25:29AM 15 Dr. Quijano or any independent recollection?

16 A. I have absolutely no records of this case at all. I
17 disposed of those years ago.

18 Q. You can also call -- you also called -- strike that.

19 I would like you to turn to -- I would like to
09:26:08AM 20 show you the section of his report in which Mr. -- Dr. Quijano

21 talks about the ability to assist counsel, referring to
22 Mr. Aldridge. And if I may, it says that -- it reflects that
23 you filed a motion for a competency evaluation raising
24 defendant's ability to assist in his own defense and
09:26:52AM 25 complained that defendant's related strange and fantastic

1 stories about the conducts charged; is that correct?

2 MS. HAYES: Could you specify what page you are on
3 now?

4 MR. RYTTING: I would be glad to. It would be
09:27:07AM 5 page -- the numerical page is page 9.

6 A. This is what Dr. Quijano, I guess, discovered during his
7 interview with Mr. Aldridge. Again, I was not present during
8 it.

9 BY MR. RYTTING:

09:27:28AM 10 Q. But do you recall filing a motion in this case in which
11 he said that he was acting strangely?

12 A. I don't recall filing a motion, but I'm sure we would
13 have filed a motion with the Court in order to have a -- have
14 an expert appointed to evaluate Mr. Aldridge.

09:27:47AM 15 Q. And is it your recollection that Mr. Aldridge did act
16 strangely during the course of your representation of him?

17 A. Yes.

18 Q. And, in fact, you had -- you -- your conversations with
19 him -- your conversations with him, as far as you can recall,
09:28:11AM 20 resulted in a -- his expression of a certain type of defense
21 that he wanted to present; is that correct?

22 A. I don't know that he exactly wanted to present it. If he
23 had insisted on taking the stand, then certainly I would have
24 advised against it; but obviously he has the right to take the
09:28:34AM 25 stand. He, as I recall, mentioned -- and this is about the

1 only thing I really recall as far as what his possible defense
2 was that he said that the man that he had murdered had raped
3 Mr. Aldridge numerous times.

09:28:59AM 4 THE PETITIONER: I never said such a thing. Fraud
5 on the court.

6 THE COURT: Quiet, please, sir.

7 BY MR. RYTTING:

8 Q. And that was part of his defense, was it not? That's
9 what he wanted you to defend him on the basis of?

09:29:11AM 10 A. No. I wouldn't say that. I think that was his
11 explanation for what he did. Again, if he had wanted to
12 present that defense and take the stand, I couldn't stop him;
13 but, again, I would have advised him not to because simply it
14 didn't happen.

09:29:28AM 15 Q. You were convinced that this defense was fabricated or
16 delusional; is that correct?

17 A. Correct. Basically, when you looked at the way the
18 offense was committed, as I recall -- again, this was not
19 something that I recalled independently. It's just been since
09:29:48AM 20 we have been involved in this process, but I'm sure I knew it
21 at the time -- that Mr. Aldridge had purchased a gun and had
22 not admitted on the form to purchase it that he was a
23 convicted felon, and then he shot and killed the complainant
24 and robbed him and then fled afterwards. So, I don't think
09:30:12AM 25 his actions were consistent with the story that he told Randy

1 Bates and me.

2 Q. His actions that you talk about, what was the source of
3 information that you relied on in determining what his actions
4 were? Was it the police reports and the crime scene evidence?

09:30:36AM 5 A. That would be correct. We would have been given access
6 to all the police reports, all the medical exams, all that
7 type of thing that is generally present in a murder case.

8 Q. And you would have shown your client this evidence, would
9 you not?

09:30:55AM 10 A. I don't know that we would have actually given him police
11 reports. Probably what we would have done -- and, again, I
12 don't recall -- was to tell him what the evidence was against
13 him, summarize it for him. If he wanted to see it, I'm sure
14 we might have been able to show it. And, you know, frankly, I

09:31:15AM 15 remember back then, I don't think the DA's office would
16 actually give us copies of the report to take with us. You
17 could take notes from those all you wanted, but I don't think
18 the policy was to actually give you the police reports.

19 Q. But it would be your practice as an attorney to explain
09:31:36AM 20 what the State alleged against him and what the State's
21 evidence against him was; is that correct?

22 A. Certainly.

23 Q. And in the face of this explanation and of this evidence
24 which you believe showed what his real conduct was, he
09:31:52AM 25 insisted that what happened was a sexual assault. Is that

1 fair to say?

2 A. That's what his story was, yes.

3 Q. And he stuck with that throughout; is that correct?

4 A. Yes.

09:32:01AM 5 Q. At the punishment phase of this trial, you called several
6 family members; is that correct?

7 A. It is. And, again, I didn't recall that until we began
8 this process. But I remember now that we did call, I believe,
9 some relatives of his.

09:32:44AM 10 Q. And one of the -- have you had a chance to review their
11 testimony?

12 A. I don't remember that I had.

13 Q. Do you have an independent recollection of -- or any
14 recollection of what they may have testified about?

09:33:07AM 15 A. I think, as I recall, we put them on there in an attempt
16 to show the jury that Mr. Aldridge was suffering from mental
17 problems. We were trying to mitigate the punishment in an
18 attempt to get him a life sentence versus a death sentence.

19 Q. And was part of that mitigation evidence

09:33:31AM 20 Mr. Aldridge's -- testimony by these relatives about
21 Mr. Aldridge's fear of being persecuted by Nazis and others?

22 A. I don't recall exactly what it was. I do recall
23 Mr. Aldridge had a lot of odd beliefs, mostly dealing with --
24 I don't know how to put it. It's not Islam as it is, but I
09:33:56AM 25 guess Islam as he believes it to be.

1 Q. So, he had some very strange -- what appeared to be very
2 strange religious beliefs.

3 A. That's true.

4 Q. And you wouldn't contest the record if it reflected a
09:34:18AM 5 Cheryl Aldridge -- let me ask you this: When you put on
6 Cheryl Aldridge, do you believe that she was testifying
7 truthfully and accurately about her brother? Do you have any
8 reason to suspect that she might have been making things up?

9 A. I don't recall her testimony. I don't think we would
09:34:35AM 10 have put her on if we had thought that she was lying.

11 Q. So, if the record reflects that she mentioned -- she
12 stated that her uncle, I believe, Mr. Aldridge, talked about
13 conspiracies, talked about prisoners and being let loose to
14 persecute him and follow him, you wouldn't contest to the
09:35:04AM 15 accuracy or the validity of that statement, correct?

16 A. Well, that's what she said. So, I had no reason to doubt
17 her word.

18 Q. And, similarly, with Virginia Lee Aldridge, who also
19 testified at trial, she gave a similar story about
09:35:29AM 20 Mr. Aldridge's mental problems and persecution that he faced;
21 is that correct?

22 A. If that's what the record reflects. I don't recollect
23 it.

24 Q. And Brenda Garrett, too, she was Mr. Aldridge's sister
09:35:47AM 25 who grew up with Mr. Aldridge. She also testified about --

1 I'll just quote it -- people being dispatched from prison and
2 about Nazis and stuff like that, which Mr. Aldridge said were
3 persecuting him. You wouldn't contest that testimony?

4 A. I wouldn't contest if it was said, no.

09:36:11AM 5 Q. Okay. And at trial you had every reason to believe that
6 these witnesses who were describing Mr. Aldridge's odd beliefs
7 were -- again, were giving a fair account of what they had
8 seen and what they had heard their brother and their uncle say
9 to them?

09:36:31AM 10 A. It wouldn't have surprised me if he had said that to
11 them. He had, as I said before, strange beliefs.

12 Q. It is fair to say he had a history of paranoid, strange
13 beliefs?

14 A. I would -- I wouldn't say that he didn't, no.

09:36:50AM 15 Q. One of the other pieces of evidence that came in at the
16 punishment phase, I believe, were the writings of
17 Mr. Aldridge.

18 MR. RYTTING: And I believe that these are at
19 Exhibit 3, Your Honor, what has been admitted as Exhibit 3.

09:37:29AM 20 THE COURT: Thank you.

21 BY MR. RYTTING:

22 Q. And have you had a chance to review these since trial,
23 look at these -- these records?

24 A. I believe that you showed me some during the course of
09:37:41AM 25 the deposition. I don't remember that I saw them all, but I

1 do remember seeing at least some of them.

2 Q. And -- and what is your opinion of the writings that you
3 saw in the course of the deposition? What did they intend to
4 show?

09:38:02AM 5 A. I don't really remember. Again, it was just something to
6 do with his odd beliefs and -- because I didn't feel that I
7 could present Dr. Quijano to put on evidence in mitigation --
8 because Dr. Quijano did find that he had mental problems, I
9 didn't think I could put that on as evidence due to the

09:38:31AM 10 problem of T.D.C. records that I turned over to Dr. Quijano.
11 So, we were trying to present some evidence of Mr. Aldridge's
12 mental problems in another way since I didn't feel I could
13 present Dr. Quijano because that would have allowed the
14 introduction of those T.D.C. disciplinary records.

09:39:00AM 15 Q. So, let's just get back to Exhibit 3. I would like to
16 read a portion of it. It would be on the -- I guess you could
17 call it the chronological page.

18 Chronological page 5, where he starts out
19 describing who he is; and he says, "There are many who wish to
09:39:35AM 20 call my name 'Nature' for the following reasons; and I have
21 refused the name, while displaying the 'Nature,' remembering
22 it written that the Prophet Muhammad said whenever there is a
23 hidden (quality) 'Nature' in one whom Allah wants revealed" --

24 THE REPORTER: I'm sorry. If you can repeat that.

25 BY MR. RYTTING:

1 Q. "Whenever there is a hidden (quality) 'Nature' in one
2 whom Allah wants revealed, Allah 'some times' employs the
3 'worst.' The most evil enemy. This one has to reveal hidden
4 (quality) or 'Nature.'"

09:40:21AM 5 And he goes on, "Since my youth (early
6 childhood), I have been under the care, watchful eyes of many
7 spirits. They have lead [sic] me into great pains and
8 suffering while guarding me from others."

9 And it continues in this vein.

09:40:44AM 10 My understanding of the mitigation strategy is
11 that these were presented as writings that represented
12 Mr. Aldridge's actual belief; is that correct?

13 A. We presented those in an attempt to show that he had
14 mental problems. Whether or not he actually believes that
09:41:04AM 15 himself, only he can say.

16 Q. But you didn't have any doubts about whether he believed
17 it or not?

18 A. I don't know whether he does or not, but I know that that
19 was certainly what I felt was an indication of the mental
09:41:19AM 20 problems that he had.

21 Q. And it wouldn't surprise you to find that in his writings
22 he talks about being sexually molested by children, for
23 example, molested by their eyes, sexually molested by their
24 eyes?

09:41:43AM 25 A. I have no doubt that he probably would write that.

1 Q. And he actually believed that -- wrote that the Prophet
2 Muhammad was also similarly molested.

3 A. I don't remember. I wouldn't know.

4 Q. But it's -- you wouldn't say that is inconsistent with
09:42:03AM 5 Mr. Aldridge's writings or his behavior in the statements; is
6 that correct?

7 A. That would be correct.

8 Q. Now, in between the time that Dr. Quijano interviewed
9 Mr. Aldridge, which was March 26th of 1990, and the date of
09:42:34AM 10 trial, there were approximately 45 days, correct?

11 A. I will take your word for it.

12 Q. 45 to 50 days intervened.

13 You didn't have him examined, again, did you?

14 A. I don't believe we did.

09:42:54AM 15 Q. And during that time he was -- was it your understanding
16 that he was being treated or on medication?

17 A. I don't remember whether he was on medication or not.

18 Q. It wouldn't surprise you, though, that he wasn't on
19 medication and he's never been medicated. Is that fair to
09:43:15AM 20 say?

21 A. I wouldn't know.

22 Q. You didn't ask the prison or the Harris County Jail to
23 treat him or put him on any sort of psychiatric regimen or
24 pharmacological regimen, did you?

09:43:31AM 25 A. If the doctor had recommended that I do that, I would

1 have done that; but I had no such recommendation. So, I
2 didn't.

3 Q. Well, actually, if I can see Exhibit No. 8, again. I
4 believe that was -- I believe that was precisely the
09:43:55AM 5 recommendation of Dr. Quijano that this patient be treated
6 and -- treated with compassion, as he put it, and given
7 psychiatric care. Was that --

8 A. That's -- I wouldn't have any argument with that.

9 Q. Okay. And one of the other things you didn't do, I think
09:44:31AM 10 the record will show, is ask for a competency hearing in this
11 case; is that correct?

12 A. I did not.

13 Q. Neither -- in fact, you didn't ask for a competency
14 hearing at any time --

09:44:54AM 15 A. I did not.

16 Q. -- during the proceedings.

17 Now, looking back at the record, don't you
18 think there was at least some evidence raising a doubt about
19 Mr. Aldridge's competency to stand trial?

09:45:08AM 20 A. Well, again, as I have said before, I felt Mr. Aldridge
21 had mental problems. I brought in a doctor whom I felt would
22 be good because Dr. Quijano is -- I remember, had been the
23 head of the psychiatric unit at T.D.C.; and I felt that he
24 would be a good choice because he was used to dealing with
09:45:38AM 25 prisoners and folks charged with criminal offenses, that he

1 would also be familiar with some of the aspects of competency
2 and insanity for criminal trials.

3 And Dr. Quijano said that Mr. Aldridge was
4 competent and that he was sane, and I believe that myself.

09:46:04AM

5 So, his opinion dovetailed what I believed. I feel that
6 Mr. Aldridge had mental problems, but I felt that he was --
7 had a coherent understanding of what was going on. He was
8 able to assist Randy Bates and me. Again, he had strange
9 beliefs, no question; but as far as his ability to understand

09:46:32AM

10 what was going on, Dr. Quijano found that he was competent and
11 able to assist us and understand the proceedings. I felt that
12 myself, and I still feel that way today.

13 Q. You felt that; but you can't recite a single example of a
14 conversation or an interaction with Mr. Aldridge in which to
15 base that opinion, can you?

09:46:57AM

16 A. Well, it was 19 years ago. I don't remember specific
17 conversations I had with him, but I think you can see here
18 today he seems to have an understanding of what's going on in
19 court. It was the same way back then.

09:47:11AM

20 Q. You made the same sort of judgment back then as you did
21 now based on his demeanor and based on his appearance in court
22 today?

23 A. Well, you know, I can't make a judgment as to him today.
24 What I am saying is, I had numerous conversations with him.

09:47:28AM

25 We went over the evidence with him. He seemed to understand

1 what was going on, and he didn't have outbursts in trial like
2 he is doing here today. I thought that he might be actively
3 hostile to me because I'm a white person and he was a black
4 Muslim and there was some hostility there.

09:47:52AM 5 That's one of the reasons I got Randy Bates to
6 help me out. He is a nice guy. He is an easy-going guy, and
7 he's an African American. And I thought if there was some
8 difficulty in communicating with Mr. Aldridge that Randy Bates
9 could bridge that gap better than I. And -- as far as I

09:48:17AM 10 recall, we didn't have -- other than his odd beliefs, there
11 was -- there was no overt hostility, I will put it that way.

12 Q. He seemed cooperative to you. Is that fair to say?

13 A. I think he was.

14 Q. Okay. But when he cooperated, when he talked, all you
09:48:38AM 15 can remember is that he -- the only specific memory that you
16 have is that he kept saying he was sexually assaulted by the
17 victim. Isn't that what you said in your deposition?

18 A. Well, I don't even remember what occurred during the
19 trial. I don't even remember putting on family members until
09:48:57AM 20 we got into this. And I have tried a number of capital
21 murders. I have tried probably 150 jury trials in the course
22 of my career. I don't remember. I just don't. I don't have
23 any records of it. It is 19 years ago, and I don't even
24 remember where I was living at the time. So --

09:49:10AM 25 Q. But one thing does stand out; and that is, is his

1 continued insistence that the victim raped him. You recall
2 that?

3 A. I remember him saying that.

4 Q. So, let's turn maybe to the testimony of Randy Bates at
09:49:26AM 5 trial. He actually testified in this trial; is that correct?

6 A. Right. Again, we were trying to show some indication of
7 the mental problems that Randy and I felt that Mr. Aldridge
8 was suffering from.

9 Q. And, in fact, his testimony does indicate some of the
09:49:46AM 10 mental problems, does it not?

11 A. It does.

12 Q. It says that his conversations with Mr. Aldridge were not
13 rational, correct?

14 MS. HAYES: Objection. The record actually isn't in
09:49:59AM 15 plural. I mean, it may have been the answer... did you have a
16 conversation?

17 THE COURT: All right. Let's stick to the record.

18 BY MR. RYTTING:

19 Q. You were the one that examined Mr. Bates, correct?

09:50:31AM 20 A. Yes.

21 Q. So, if I may, the redirect examination of Mr. Bates --
22 during your redirect examination of Mr. Bates, you asked him:
23 There would be times -- whether -- let's see. The question
24 was: "Without going into what Mr. Aldridge said, can you

09:51:17AM 25 describe the -- I guess the tenor of the conversations that we

1 had with him?"

2 And Mr. Bates responded, "There would be times
3 when I would ask him a question, and he would respond
4 appropriate to the question. There would be other times that
09:51:29AM 5 I would ask him questions, and his answer would have nothing
6 to do with what I asked him about."

7 And you asked him, "How would you characterize
8 his thoughts? Was there anything odd about them or to you?"

9 And the answer was: "Quite odd."

09:51:44AM 10 Here's the next question: "Was there any talk
11 about the spirits controlling people?

12 The answer: "Quite a bit of talking about
13 that."

14 QUESTION: "Any talk about conspiracy?"

09:51:54AM 15 "Quite a bit of talking about that."

16 QUESTION: "People after him?"

17 ANSWER: "Yes."

18 QUESTION: "Different groups?"

19 And this doesn't represent an isolated
09:52:09AM 20 incident, does it, Mr. Douglas [sic]?

21 A. No.

22 Q. It represents the consistent experience that Mr. Bates
23 had with his client; is that correct?

24 A. And myself, as well.

09:52:22AM 25 Q. And you believe now -- as you have testified, this is a

1 long time ago -- that Mr. Bates' testimony at trial and the
2 record of his testimony at trial is a better indication of
3 what Mr. Aldridge was -- was like and how he behaved. Isn't
4 that fair to say?

09:52:53AM 5 A. I would think that would be fair, yes.

6 Q. One last question. When it comes to requesting and
7 obtaining a hearing, are you familiar with the standard that
8 has to be met to get a competency hearing?

9 A. It's been a long time. I don't remember the exact
09:53:38AM 10 standards; but as I recall, it was something along the lines
11 that he had to have a rational understanding of what was
12 happening to him or a reasonable understanding or something
13 like that and that he could reasonably assist his attorneys
14 with his defense.

09:53:57AM 15 Q. And what was your burden that you had to show in order to
16 get a hearing? Do you recall?

17 A. I think we could probably just request a hearing from the
18 Judge, as I recall. I don't really remember.

19 Q. I mean, what type of showing? Do you have to have clear
09:54:14AM 20 evidence? Do you have to have proof beyond a doubt? What is
21 the standard?

22 A. I don't recall what it was. It's not beyond a reasonable
23 doubt. I know that. It's some lesser standard, but I don't
24 recall what it was.

09:54:47AM 25 Q. And at the time of trial, were -- were you aware of what

1 type of evidence that might be taken into consideration by the
2 judge in determining whether to convene a competency hearing?

3 A. Probably.

4 Q. Okay. What is your understanding of what you might have
09:55:21AM 5 to show to a Judge in order to get a hearing?

6 A. I don't recall what it would have been.

7 Q. Would it surprise you to know that you can present
8 psychiatric findings?

9 A. Sure. I know that. That's probably one of the main
09:55:42AM 10 components, I would think.

11 Q. And it doesn't -- even if there is a finding of
12 competency, if there's other indications in the report that
13 may support a request for a hearing. Is that your
14 understanding?

09:55:57AM 15 A. I would think that's probably correct, yes.

16 Q. There was clearly, don't you think, evidence that Mr. --
17 Dr. Quijano's report and his interview indicating that
18 Mr. Aldridge was -- some reason to think he was incompetent,
19 don't you think?

09:56:17AM 20 A. I felt that there was indications that he had mental
21 problems. I don't think that there was an indication from
22 Dr. Quijano that he was incompetent because he found that he
23 was competent, and that's what I believed.

24 Q. Well, I'm talking about his clinical evaluation, what he
09:56:32AM 25 reported your client telling him.

1 A. Well, he told us a lot of the same types of things; and I
2 still felt that he was competent myself, as did Dr. Quijano.

3 Q. Well, here's -- if I may just read from his report what
4 he told Dr. Quijano about the essential data of the supposed
09:57:01AM 5 crime that was committed. As we look at page 7 on his report,
6 it says, "On the day of the conducts charged, Rulford arrived
7 earlier than the victim whose career he was trying to help.

8 After regaining strength to try to beat the guy and the
9 spirits one more day, he set up things to open up. But the

09:57:19AM 10 guy, who must have been on the roof because he felt his power
11 to be very close, knew of his thoughts and wanted to get him
12 with possession of a handgun to which the other spirits said
13 no. The victim was previously advised by the spirits not to
14 participate, and Rulford had previously thought of killing the

09:57:37AM 15 victim. The supervisor discussed with the manager that
16 Rulford was about to kill the victim through the guy. Rulford
17 walked by them, and the supervisor told the manager" --

18 THE REPORTER: I'm sorry. I'm having trouble
19 hearing you.

20 BY MR. RYTTING:

21 Q. I'll start with "Rulford walked by them, and the
22 supervisor told the manager they should prevent Rulford from
23 killing the victim as a plot to prevent Rulford from going to
24 the Middle East for which McDonald's could be held responsible
09:58:10AM 25 if the trip failed. The guy then prevented Rulford by

1 blackout from assuring the manager he would not kill the
2 victim."

3 You had no reason at that time to think that
4 Mr. Aldridge didn't believe exactly what he told Dr. Quijano;
09:58:28AM 5 is that correct?

6 A. Well, there was evidence that he didn't believe that
7 because of the way that the crime was committed and set up.
8 That was rational.

9 Q. Did you ask Dr. Quijano what his opinion was about
09:58:45AM 10 whether Aldridge believed what he was telling him?

11 A. I don't remember if I did or not; and I don't think there
12 was any way to determine that, whether he was telling the
13 truth or not. In fact, that's something only he can know --
14 Mr. Aldridge.

09:58:58AM 15 Q. Well, we know that isn't true, that this account that he
16 gives is not true. It is false, right? We can determine it
17 is false.

18 A. About all the --

19 Q. Yes.

09:59:09AM 20 A. Sure.

21 Q. The question is whether he believed it.

22 A. Right.

23 Q. And would it surprise you to know that Dr. Quijano has
24 stated in deposition that he absolutely did believe that?

09:59:22AM 25 A. I wasn't present at his deposition. So, I don't know.

1 Q. But you didn't ask if he believed that.

2 A. I'm sorry.

3 Q. You didn't ask Dr. Quijano if -- is it fair to say that
4 you didn't ask Dr. Quijano: Does my guy actually believe what
09:59:41AM 5 he tells you during the interview?

6 A. I have no recollection of what the conversation was
7 between Dr. Quijano and myself. I was concerned about his --
8 Mr. Aldridge's apparent mental problems. And so, I asked for
9 an expert to come in and take a look at it; and the expert
10:00:01AM 10 found that he was legally competent and legally sane. And
11 that's what I went with.

12 Q. Again, you came -- did you come to an independent
13 conclusion that Mr. Aldridge was competent to stand trial,
14 independent of Dr. Quijano's report?

10:00:54AM 15 A. What I'm telling you is exactly what I have said before.
16 I thought he had mental problems. I thought they needed to be
17 looked at by a competent expert. Dr. Quijano made those
18 findings, and I felt his findings were correct.

19 Q. I would -- I have to ask you a couple of questions
10:01:25AM 20 about your background. You don't have any training in
21 psychology or psychiatry, do you?

22 A. No.

23 Q. And you didn't at the time?

24 A. No.

10:01:38AM 25 Q. You didn't understand what psychosis was, for example?

1 A. No, just only what a layman might know or read about in
2 the paper.

3 Q. Or delusion -- you didn't have an understanding of what a
4 delusion system was. Is that fair to say?

10:01:58AM 5 A. No. I don't claim to try to understand a lot of
6 psychiatric terms or psychology, other than what a normal
7 layman might understand.

8 Q. And you weren't in a position to determine whether -- by
9 yourself, when you were interviewing Mr. Aldridge, whether he
10:02:17AM 10 was hallucinating, whether he was hearing voices, were you?

11 A. No. That's why I got Dr. Quijano.

12 Q. So, throughout your representation of Mr. Aldridge, he
13 could have been hallucinating, correct?

14 A. Possibly.

10:02:33AM 15 Q. In fact, doesn't Dr. Quijano's interview indicate that
16 throughout his -- the psychological interview of his client,
17 Mr. Aldridge was actively hallucinating and delusional?

18 A. I have no reason to quarrel with Dr. Quijano's findings.

19 Q. You didn't ask him if he was delusional. You didn't ask
10:03:04AM 20 him if he was hallucinating, did you?

21 A. I may have. I don't remember.

22 Q. Is it your understanding that one of the other bases for
23 obtaining a competency hearing could be a history of odd and
24 strange behavior?

10:03:37AM 25 A. I expect so, yes.

1 Q. And in this case Mr. Aldridge certainly seemed to have a
2 history of odd and strange behavior, did he not?

3 A. He did, but the witness that I had -- or -- the question
4 was resolved in my mind through what Dr. Quijano found in his
10:03:57AM 5 report and what he told me. That's why I didn't request a
6 competency hearing.

7 Q. But he did have a history -- you understood he had a
8 history of bizarre beliefs, bizarre behavior?

9 A. That's what I was told.

10:04:13AM 10 Q. Have you ever participated in a competency hearing?

11 A. Yes.

12 Q. And how many times have you done that?

13 A. It was probably a lot of times. When I was a prosecutor
14 with the district attorney's office, there were -- I wouldn't
10:04:55AM 15 say a real regular occurrence, but it wasn't something that
16 was real unusual either.

17 Q. And as a defense attorney, did you ever participate in
18 competency hearings?

19 A. I suspect I did, yes.

10:05:09AM 20 Q. And was this experience before or after the Aldridge
21 case, as a defense attorney?

22 A. I don't remember if it was before or after.

23 Q. As a prosecutor, your position was generally in
24 opposition to the defense's claim that their client was
10:05:52AM 25 incompetent; is that correct?

1 A. Generally, it was not. We would look at the report that
2 the doctor who evaluated the defendant would come up with.
3 Actually, probably, most of the time I was allied with the
4 defense. Because when we had the competency hearing, it was
10:06:11AM 5 generally because the defendant was found to be incompetent;
6 but a jury had to make that finding. So, the defense and the
7 prosecutor, me, would tell the jury that we were in agreement
8 that the defendant was incompetent and that we felt that the
9 jury should find that he was incompetent; and generally they
10:06:35AM 10 would do that based on that representation and the doctor's
11 reports.

12 Q. Do you have any recollection of any particular case in
13 which this was done?

14 A. No.

10:06:43AM 15 Q. I would like to turn one more time to the report of
16 Dr. Quijano. It has to do with the defense that Mr. Aldridge
17 told them he was going to put on. And it says this:

18 THE COURT: Which page, counsel? Which page?

19 MR. RYTTING: It's page 9 of the report.

10:07:15AM 20 BY MR. RYTTING:

21 Q. "He will advance the following arguments and evidence to
22 prove himself not guilty. The victim was part of the
23 conspiracy with individuals and spirits that repeatedly
24 harassed him by sexual assault and controlling his thoughts
10:07:31AM 25 and preventing him from fulfilling his religious destiny in a

1 Muslim country."

2 That is the defense that Mr. Aldridge told
3 Dr. Quijano he was going to put on. And your testimony has
4 been that what you recall from your client is that he
10:07:49AM 5 essentially stuck by that defense in this case. Is that fair
6 to say?

7 A. I remember -- all I really remember about what he said
8 was is that the complainant had repeatedly sexually assaulted
9 him. That's basically what I remember. That's what he told
10:08:13AM 10 Dr. Quijano. Again, I have no reason to quarrel with what's
11 in Dr. Quijano's report. But as far as independent
12 recollection, that's about all I remember.

13 Q. Well, that recollection fits quite nicely with what
14 Dr. Quijano found by his psychological interview about Mr. --
10:08:34AM 15 about what Mr. Aldridge thought the defense should be in this
16 case?

17 A. Well, I don't know if that's the -- if you are talking
18 about as far as presenting it to a jury. I mean, that was the
19 story he told about -- told us about why he did what he did.

10:08:53AM 20 And, again, as a lawyer, I would have advised him not to
21 present that because there was absolutely no evidence that
22 that occurred. It just didn't happen. And I felt that
23 putting on a defense like that would have been
24 counterproductive, and I would have advised against it. But
10:09:11AM 25 if he insisted on wanting to testify, that's his right.

1 Q. You would have allowed your client to put on a delusional
2 defense?

3 A. If that's what he wanted to put on, I mean -- if he felt
4 like this guy raped him -- lots of defendants tell lies when
10:09:33AM 5 they testify. This would have been another. I don't -- you
6 know, is it delusional; or is it a lie? I don't know.

7 Q. Well, you didn't find out. That's the problem, right?

8 A. I knew it wasn't true. I can't tell -- you know, I had
9 him evaluated by an expert. That's the best I can do.

10:09:57AM 10 Q. But still even today you can't tell -- you didn't know at
11 the time whether this was delusional or a lie. That's what
12 you are saying, right?

13 A. I can't tell you.

14 Q. And the same can be said about his writings and his --
10:10:24AM 15 the rest of the psychological interview that -- the results of
16 the psychological interview, his stories about spirits on the
17 roof, about being molested constantly, about his desire to go
18 to Iran to fulfill his testimony (sic), all of that, in fact,
19 you didn't know when you were in trial whether he was

10:10:43AM 20 fabricating it or actually believed it. Is that fair to say?

21 A. One of the reasons why I wanted to get Dr. Quijano is
22 because defendants have been known to embellish or to fake
23 being mentally ill, and I felt --

24 Q. I understand that.

10:10:58AM 25 A. I felt that because Dr. Quijano was conversant with

1 prisoners and had dealt with them on a regular basis, that he
2 would be more aware of something like that.

3 Q. But the question was whether you knew at the time of
4 trial or --

10:11:29AM 5 A. I don't think anybody can know what goes on in his mind,
6 whether it is a delusion or if it's a lie. You can have an
7 opinion about it; but as far as truly knowing, no one could
8 know except Rulford Aldridge.

9 Q. Okay. And did you get an opinion on whether this was a
10:11:47AM 10 delusion or a lie from anybody?

11 A. I don't remember. Again, I say -- he has mental
12 problems. I have no doubt that probably he had some
13 delusions. Whether all of that was what he believed or not, I
14 can't tell you.

10:12:07AM 15 Q. Well, let's assume this is all delusional just for a
16 moment. How could someone that believed this -- believed that
17 this is what his defense was going to be, assist you in a
18 trial, in a capital murder trial?

19 A. I had -- it wasn't like his conversations were all just
10:12:38AM 20 looney. He understood what was going on. He basically said
21 he killed this man because he raped him a number of times. I
22 didn't believe that. End of story.

23 Q. When it came to defending Mr. Aldridge, you put on a
24 different defense than the one that Mr. Aldridge told
10:13:33AM 25 Dr. Quijano he was going to sponsor at trial. Is that fair

1 enough to say?

2 A. Yes.

3 Q. And Mr. Aldridge didn't assist you at all with that
4 defense. That was your own decision.

10:13:47AM 5 A. I don't remember if he assisted us with that or not.
6 When you're -- I've tried a lot of capital murders; and as far
7 as the guilt/innocence, there's virtually no question as to
8 guilt of the defendant. If you are going to -- as a
9 prosecutor, if you are going to seek a death penalty, it has
10:14:11AM 10 to be pretty much a hundred percent bullet proof as far as
11 guilt. So, as a defense lawyer, your eye is more towards the
12 punishment phase and trying to mitigate the punishment.

13 Q. I guess the point is, though, was there -- there was no
14 help with -- the defense that you put on, he was no use to you
10:14:41AM 15 at all.

16 A. I don't remember the conversations I had with
17 Mr. Aldridge. I'm assuming that he helped us because we
18 had -- we did have rational conversations with him.

19 Q. Again, you keep saying you had a rational conversation
10:14:57AM 20 with him; but each one turns to -- if I'm not correct, the
21 record will reflect that the only thing you remember is this
22 business about him being raped and sexually assaulted by the
23 victim.

24 A. That's the only specific thing I remember.

10:15:20AM 25 Q. Okay. Again, let's go back to this report. You didn't

1 get this report until the middle of trial. That's when it
2 said it was completed. You may not have got it all until the
3 trial was over, as soon as the trial was complete, May 15th,
4 which is the date of this report; is that correct?

10:15:51AM 5 A. Well, I'm not going into a trial without having at least
6 talked to Dr. Quijano to get his findings. That wouldn't make
7 any sense.

8 Q. But you still have no memory of talking with Dr. Quijano
9 at all prior to the trial?

10:16:13AM 10 A. I would have talked to him. I don't remember it, but I
11 wouldn't have gone into the trial without some feedback from
12 Dr. Quijano. There's no reason for me to ask for an
13 evaluation and then just blow it off.

14 Q. Well, here's a report that's nearly 13 pages long, single
10:16:36AM 15 spaced. Did you ever go up to Conroe to see him at his
16 office?

17 A. I don't remember if I did.

18 Q. Did he ever come down to see you?

19 A. I don't recall whether we did that or not.

10:16:47AM 20 Q. And you don't have any phone records of conversations
21 with Dr. Quijano?

22 A. No.

23 Q. And how long do you think it would -- you don't actually
24 have any recollection of any conversations, even though -- how
10:17:06AM 25 long do you think it would take to explain this to somebody,

1 the significance of this, and go through the results of this
2 interview?

3 A. I wouldn't know.

10:17:49AM

4 Q. Did Dr. Quijano have any input whatsoever into your
5 defense of your client?

6 A. I don't remember.

7 Q. You didn't put on an insanity defense in this case --

8 A. No.

9 Q. -- correct?

10:18:18AM

10 A. That's correct.

11 Q. And one of the reasons is maybe because you didn't have
12 this report; is that correct?

13 A. The main reason I didn't put on an insanity defense is
14 there was no finding by Dr. Quijano that he was insane.

10:18:42AM

15 Insanity in Texas was extremely difficult to prove. I think
16 it had to be basically that what the defendant -- when he
17 committed the murder, committed the crime, that he didn't know
18 what he was doing was wrong. I don't think there's any
19 indication from the way this crime was committed that

10:19:03AM

20 Mr. Aldridge didn't know it was wrong. He fled afterwards,
21 after he robbed and killed the complainant. And as a general
22 rule, insanity defenses don't work.

23 Q. Do you know what a command hallucination is?

24 A. I'm sorry?

25 Q. A command hallucination?

1 A. I don't know what that is.

2 Q. And you didn't know at trial, I take it?

3 A. I don't know if I did or not.

4 Q. It's not something you forgot?

10:19:33AM 5 A. I don't know. Possibly.

6 Q. Did you ask Dr. -- did you ask Dr. Quijano was he under
7 the influence of command hallucinations during the commission
8 of this crime?

9 A. I wouldn't remember that.

10:19:58AM 10 Q. Would you have put on an insanity defense if your expert
11 had told you that he was under the influence of command
12 hallucinations when he committed this crime?

13 A. If I thought he was insane and had evidence to back it
14 up, likely I would have tried it.

10:20:16AM 15 Q. You don't consider evidence of command hallucination at
16 the time of the offense evidence that he was insane?

17 A. I don't know what command hallucination is. What I am
18 telling you is he knew -- I felt he knew that what he did was
19 wrong. I didn't feel that he met the legal definition of

10:20:37AM 20 insanity based on the evaluation by Dr. Quijano and from what
21 I observed from the evidence and the crime.

22 Q. It didn't look like he was acting in the presence of --
23 under the influence of a severe mental disease at the time of
24 the crime?

10:20:55AM 25 A. He had mental problems.

1 Q. That wasn't my question. Based on the report and the
2 account of the crime, some of which we have read in the record
3 here, doesn't it appear to you that he was acting under the
4 influence of --

10:21:11AM 5 A. There's nothing in the report that says --

6 THE COURT: One at a time. One at a time, please.
7 Let him finish his question.

8 THE WITNESS: Yes, sir.

9 BY MR. RYTTING:

10:21:16AM 10 Q. And because of a severe mental illness...

11 A. He has a mental illness. There's nothing in there that
12 indicated that he was insane. It indicates he has mental
13 illness.

14 Q. Let me rephrase it. The question -- not rephrase it.

10:21:41AM 15 Let me restate the question again because you answered a
16 different question.

17 I asked you: Is there evidence in that report
18 that he was acting due to or because of a severe mental
19 illness at the time of the crime?

10:21:53AM 20 A. If that's what the report says, I don't have no reason to
21 argue with it.

22 Q. If that's what your expert would have told you at trial,
23 would you have considered and wouldn't that be grounds for
24 presenting the insanity defense?

10:22:14AM 25 A. Well, the problem I had -- I would have loved to have

1 presented Dr. Quijano to a jury to present evidence of
2 Mr. Aldridge's mental problems. The problem I had was the
3 disciplinary records at T.D.C. indicated that Mr. Aldridge had
4 quite a few run-ins with the guards there, and the main thing
10:22:43AM 5 I recall was that he had stabbed another inmate in the face
6 with a fork. So, I had to weigh the -- do I put on
7 Dr. Quijano and present the evidence of his mental problems,
8 knowing that the prosecutor didn't have those records. He had
9 subpoenaed them. He didn't get them. I don't know why. I
10:23:06AM 10 had them.

11 But if I put on Dr. Quijano, I would have had
12 to turn those records over to the prosecution because it would
13 have been something that Dr. Quijano considered during his
14 evaluation. And, frankly, I thought that that would severely
10:23:26AM 15 undercut any argument you had at the penalty phase of the
16 trial in which you try to tell the jury that if you give this
17 man life rather than death, he is going to spend his time in
18 prison and he won't be a threat to anybody else. Well, those
19 records indicate he was a threat.

10:23:48AM 20 Q. The insanity defense, as you understand it, is a defense
21 that comes in at guilt/innocence, right, not at the punishment
22 phase.

23 A. Right.

24 Q. And did the T.D.C. records have anything to do with the
10:24:05AM 25 possibility of putting on an insanity defense?

1 A. I had -- I figure with an insanity defense, the only way
2 it is going to work is if you have a doctor, a psychiatrist,
3 or someone who is going to say he is insane. I didn't have
4 that, and just throwing out -- throwing out things without
10:24:27AM 5 that is not going to work, in my opinion.

6 Q. So, it really wasn't the T.D.C. records in this case that
7 made the decision?

8 A. I had no evidence he was insane, not enough to put on a
9 defense. And generally they don't work.

10:24:56AM 10 Q. Well, let's turn to the second half of the test of
11 insanity, which is sometimes used in some jurisdictions; and
12 that is whether he understood the nature and quality of his
13 actions.

14 MS. HAYES: I'm objecting to this line of
10:25:14AM 15 questioning since it is not the standard we use in Texas.
16 There's just no point in even going into the McNaughton rule.

17 MR. RYTTING: That has to do with the recent Supreme
18 Court case, *Clark versus Arizona*. It's *Clark versus Arizona*,
19 Your Honor. And in that case the Supreme Court considered the
10:25:33AM 20 Arizona statute in which only one half of the McNaughton test
21 is used. And that is the same as Texas, where they only use
22 what they call the moral prong. Did they understand at the
23 time of the -- at the time of the offense, or was their mental
24 illness such at the time of the offense that they weren't able
10:25:50AM 25 to understand that their action was wrong. And they -- and

1 that was Arizona standard because it was in Texas.

2 But the complaint was -- of Clark was
3 precisely: Look, you don't use both prongs in Arizona. You
4 don't use the second half in which you sometimes call the
10:26:10AM 5 cognizant test. Did they understand the nature and quality of
6 their actions? And in addressing this question, the Court
7 said: Look, that doesn't mean the test from Arizona is
8 deficient. Because if you find that a client doesn't
9 understand the nature and quality of his actions, you are
10:26:32AM 10 almost invariably going to determine that he is -- doesn't
11 meet the first prong of the McNaughton test, that that is a
12 condition of -- for -- and very relevant to determining this
13 moral -- the moral prong.

14 So, there's no harm in just having the moral
10:26:52AM 15 prong. Certainly that just means that certainly that evidence
16 about the nature and quality of the action is highly relevant
17 as to whether an insanity defense can be put on. Of course,
18 it is. If a guy is completely delusional about what he is
19 doing, it's impossible to say that: Well, he, nonetheless,
10:27:13AM 20 understood that what he was doing was wrong. And that's why
21 this is a relevant line of questioning.

22 And the Court in *Clark* isn't just resting on --
23 isn't making new law. They make it pretty clear that this
24 isn't sort of a new determination, that this sort of has been
10:27:32AM 25 the way that the test has been looked at, that one prong

1 essentially incorporates the other. And that's why I think it
2 is relevant in going into this line of questioning here,
3 despite the fact that the Texas standard has just that one
4 half of the McNaughton test.

10:27:48AM 5 THE COURT: Okay. I am going to sustain the
6 objection. Let's take a 20-minute break. Thank you.

7 (Break)

8 THE COURT: All right. Ready to proceed?

9 MR. RYTTING: Yes, Your Honor. I am ready to
10:55:08AM 10 proceed.

11 THE COURT: Okay.

12 BY MR. RYTTING:

13 Q. Just returning briefly to the issue of the insanity
14 defense, do you recall anything at trial or on the record that
10:55:26AM 15 indicated Mr. Aldridge thought that what he did on the day of
16 the crime was illegal?

17 A. Well, I don't know that we ever really discussed it with
18 him in those terms. Again, he claimed that this fellow had
19 sexually assaulted him before. If that was true, he went in
10:55:53AM 20 there and just shot him, that would be illegal.

21 Q. You didn't ask him if he thought this was --

22 A. No.

23 Q. -- violated any law?

24 A. No.

10:56:00AM 25 Q. Was there any indication that -- you know, he may have

1 been remorseful; but did he think that what he was doing was
2 advancing some other cause or some other purpose?

3 A. You know, again, all I can say is that all I
4 independently remember is that he said that this fellow had
10:56:26AM 5 raped him; and I don't recall anything really other than that.

6 MR. RYTTING: I'll pass the witness.

7 THE COURT: Thank you very much.

8 Cross-examination?

9 **CROSS-EXAMINATION**

10:56:59AM 10 **BY MS. HAYES:**

11 Q. Good morning, Mr. Hayes.

12 A. Morning.

13 Q. I'm Katherine Hayes with the Attorney General's office.
14 I would like to talk to you briefly about how specifically did
10:57:09AM 15 you choose Dr. Quijano to do the evaluation.

16 A. As I recall, I asked around to several people; and I
17 found that Dr. Quijano, as I remember, had been the head of
18 the psychiatric unit at T.D.C., Texas Department of
19 Corrections. And I thought that would be just about perfect

10:57:36AM 20 for the situation that we had because he would be familiar
21 with the criminal process and also in dealing with the
22 prisoners.

23 Q. So, you did consult with other attorneys about making
24 that decision with Dr. Quijano?

10:57:51AM 25 A. Yes. I don't remember where I got his name; but it was

1 likely from another attorney, I would imagine.

2 Q. Do you recall if Dr. Quijano at any point had indicated
3 that perhaps Mr. Aldridge had exaggerated some of his stories?

4 A. He very well may have. I don't recall. I know that
10:58:27AM 5 because Mr. Aldridge, I think, held a responsible job at the
6 time, there was some -- again, I have no question that he had
7 some mental problems; but I think there was a question in my
8 mind as to exactly how severe it was, you know, because he was
9 able to hold a responsible job prior to this killing.

10:58:51AM 10 Q. Can you explain what you mean? Do you remember any of
11 the specifics about the job or what kind of job he held?

12 A. I don't remember the name of the place; but as I
13 remember, I think it was a fast-food -- you know, something
14 similar to Jack-In-The-Box, McDonald's, I believe. And I
10:59:18AM 15 think he may have been an assistant manager, if I remember
16 right; but I could be wrong.

17 Q. Do you recall if he was living on his own or if he was
18 living with family members when the crime happened?

19 A. I believe he was living on his own.

10:59:32AM 20 Q. Do you recall if he -- if he had a car at the time or had
21 a car before?

22 A. I don't remember.

23 Q. Now, you mentioned that there was -- you would not go to
24 trial without having at least talked to Dr. Quijano to get his
11:00:01AM 25 opinion.

1 A. True.

2 Q. Okay. So, you hired him to do an evaluation. So, at
3 least you had to confer with him before proceeding in to
4 trial. Would that be correct?

11:00:09AM 5 A. Definitely.

6 Q. Okay. Now, the first thing that you could do -- I
7 suppose when Dr. Quijano is hired, it was for the competency
8 evaluation. So, at what point in trial proceedings would you
9 have to proceed on -- if you came back and said the defendant

11:00:24AM 10 is, in fact, incompetent, at what point would you need to be
11 moving ahead with incompetency?

12 A. In an ideal world, I would have liked to have done that
13 well prior to jury selection.

14 Q. Okay. So, if the evaluation happens at the end of March
11:00:44AM 15 and the jury selection is in late April of 1990 -- I know
16 there was a comment made about that -- with the report not
17 coming out until May 15th, 1990, there was some 45 or 50-day
18 gap between the evaluation and when the report came out. Does
19 that sound familiar with the questioning from earlier?

11:01:09AM 20 A. It does.

21 Q. Okay. Does that mean that in that gap, that you had no
22 other dealings with Dr. Quijano or reprising him of the
23 situation with Mr. Aldridge?

24 A. No.

11:01:24AM 25 Q. I would like to turn your attention to Plaintiff's

1 Exhibit 8. And at page 3 --

2 A. I'm sorry. I don't have it.

3 MS. HAYES: If I may approach?

4 THE COURT: You may.

5 A. Thank you.

6 BY MS. HAYES:

7 Q. Part of the questioning earlier was about some of the
8 things that occurred during Dr. Quijano's questioning -- or
9 Dr. Quijano's evaluation; and it involved that he had reviewed

11:02:11AM 10 some records, I believe. Do you recall what records offhand
11 you may have provided to Dr. Quijano?

12 A. I know I provided a record of his disciplinary records at
13 T.D.C. Mr. Aldridge, I think, had a prior record. I likely
14 would have provided some of those, as well.

11:02:42AM 15 Q. Would it assist your recollection if Dr. Quijano had
16 listed some of the materials that he reviewed in advance?

17 A. Yes.

18 Q. Okay. If I could direct you to page 3, where Dr. Quijano
19 details some of the things that he reviewed underneath the

11:02:57AM 20 "history" section.

21 A. I've got it.

22 Q. Okay. I'm looking at the second paragraph under
23 "history." He says that he reviewed personal writings,
24 including an August 2nd, 1989, letter to a brother Muslim in

11:03:16AM 25 Dubai.

1 A. I see that.

2 Q. Okay. And that relates -- that he was receiving
3 persecution from Nazis, gays, blacks, and other prison trash.
4 Okay.

11:03:28AM 5 Do you recall -- if the record reflects that
6 you actually admitted that letter at punishment as Defense
7 Exhibit 2, in addition to providing that to Dr. Quijano, would
8 you have a reason to refute that?

9 A. No, not at all.

11:03:48AM 10 Q. Okay. On the next -- the thing that's listed, it says
11 that there is a strange October 8th, 1988, letter to the Texas
12 Department of Labor and Standards.

13 A. I see that.

14 Q. Do you recall having provided that to Dr. Quijano?

11:04:03AM 15 A. Not independently; but if he said I did, I'm sure I did.

16 Q. Do you recall admitting that at the punishment hearing as
17 Defense Exhibit 4?

18 A. Obviously I must have.

19 Q. Do you recall -- also, it says a strange April 30th,
11:04:20AM 20 1990, letter to the IRS.

21 A. I see that.

22 Q. The next thing, it says strange writings during jury
23 selection on April 18th of 1990. Do you agree that you
24 provided that to Dr. Quijano?

11:04:35AM 25 A. Obviously I did.

1 Q. So, if Dr. Quijano evaluates Mr. Aldridge in March, at
2 least it appears several weeks later you are still apprising
3 him apparently of some of the current events that -- some of
4 the things that were wrong with Mr. Aldridge. Would you agree
11:04:55AM 5 with that statement?

6 A. Yes, I would.

7 Q. Okay. Would you also agree that during the punishment
8 phase, you in turn took that letter and admitted that at trial
9 as your Defense Exhibit 5?

11:05:03AM 10 A. I would imagine I did if it is there.

11 Q. And then also one of the things that Dr. Quijano lists is
12 that he also reviewed strange writings found in Aldridge's
13 possession at the time of his arrest. Do you recall providing
14 those to Dr. Quijano?

11:05:20AM 15 A. I remember providing Dr. Quijano with a lot of strange
16 writings that he did. I don't remember if it was these
17 specifically, but obviously I must have.

18 Q. Okay. And if the record reflects that the writings that
19 were in Mr. Aldridge's possession are in the trial record as
11:05:34AM 20 Defense Exhibit 3, then you obviously would have entered that
21 at punishment, as well; is that correct?

22 A. Yes.

23 Q. Okay. So, if you considered those four exhibits
24 together, the trial exhibits -- 2, 3, 4, and 5 -- it would be
11:05:47AM 25 correct to say that you provided your expert a chance to

1 review writings and evaluate whether that impacted competency
2 before you went ahead and proceeded with trial?

3 A. Yes.

4 Q. Okay. And the same thing as far as sanity, that he had
11:06:04AM 5 an opportunity to review those letters and determine if they
6 at all would impact his sanity opinion.

7 A. Yes.

8 Q. So, when the comment is made about there being a 45-day
9 gap timeline between evaluation and when you actually get the
11:06:18AM 10 report, that doesn't mean that there is a void between you and
11 Dr. Quijano communicating about this case. Would that be
12 correct?

13 A. Obviously, looking at this, we must have been in
14 communication throughout.

11:06:31AM 15 Q. And do you recall -- also, if you look at the same page,
16 page 3, it talks about T.Y.C. records. That would Texas Youth
17 Commission records. So, if the record reflects that
18 Dr. Quijano reviewed those, would those have been provided by
19 your office?

11:06:45AM 20 A. Yes.

21 Q. Okay. Would the T.Y.C. records -- for what purpose would
22 you be providing T.Y.C. records to Dr. Quijano?

23 A. Well, those are his prior -- it is his prior criminal
24 record; and I would think that that would be something that is
11:07:04AM 25 important for a psychiatrist to look at in coming to an

1 evaluation, as far as whatever he needs to be looking at. I
2 mean, he needed everything that was available.

3 Q. Okay. So, if a professional was trying to determine
4 maybe when mental illness or mental problems started to
11:07:26AM 5 appear, maybe they would be documented in those records.

6 Would that be a fair assessment?

7 A. I know a lot of times T.D.C. records and that type thing
8 would have reports in there regarding any treatments that were
9 given to prisoners, psychiatric treatments and otherwise.

11:07:47AM 10 Q. And on a similar line, you provided the Texas Department
11 of Criminal Justice, although I guess probably then it was
12 T.D.C., records, Texas Department of Corrections. Those were
13 also provided to Dr. Quijano?

14 A. They were.

11:08:00AM 15 Q. And the records, if I am correct, would reflect that he
16 had committed -- prior to this capital murder, in 1972 he
17 committed nine different aggravated robberies and an assault
18 to murder, I believe is what the charge was. Does that sound
19 correct?

11:08:23AM 20 A. Yes. I knew he had a pretty bad criminal history. I
21 didn't remember exactly what it was; but if that's what is
22 reflected in here, that's likely correct.

23 Q. Do you recall anything about the -- everything about this
24 case -- when people started to say that Aldridge first started
11:08:46AM 25 acting strange?

1 A. I don't remember.

2 Q. Okay. Do you recall any time that people said any event
3 that might have caused it?

4 A. I think his sister or relative said something about -- I
11:09:06AM 5 don't remember. She may have mentioned something about a
6 childhood incident, but I don't recall exactly.

7 Q. Okay. Do you have any recollection of talking with
8 Aldridge's family members about -- about his arrest?

9 A. I don't. I don't recall.

11:09:28AM 10 Q. Do you recall whether Mr. Aldridge's -- after the crime
11 was committed in Houston, that he ended up leaving the --
12 actually leaving the state?

13 A. I remember he fled, yes.

14 Q. Do you remember where he fled?

11:09:47AM 15 A. I want to say it was out of the country, but I can't
16 remember.

17 Q. If the record showed that he fled to Mexico City and then
18 on to Toronto, would that sound correct?

19 A. If that's what the record reflects, I don't have any
11:10:05AM 20 reason to argue with it.

21 Q. You had said earlier that one of the considerations, I
22 believe, was about whether Mr. Aldridge actually appreciated
23 whether his conduct was wrong or whether it was illegal.

24 Would those be factors that you would have considered in
11:10:24AM 25 whether he appreciated the wrongfulness of his acts?

1 A. Certainly I think flight is a consideration.

2 Q. Do you have any recall whether the record shows that
3 Mr. Aldridge had asked family members to go into his apartment
4 to get a passport or maps or money?

11:10:45AM 5 A. I don't independently recall that. I don't.

6 I do think that one of his sisters helped him
7 in some fashion, but I don't remember what it was.

8 Q. If, in fact, one of the sisters had been arrested for
9 helping -- with an evade arrest, an offense similar to that,
10 would that be a consideration in deciding if you were going to
11 ever present that individual as a witness?

12 A. Certainly if she assisted him in escaping, I don't
13 believe that would be someone that I would want to put on the
14 stand as a credible witness.

11:11:36AM 15 Q. And if, in fact, the record shows that Gladys Aldridge,
16 Mr. Aldridge's older sister, had helped him -- be one of the
17 people to escape the area, then would you have reason to doubt
18 that Gladys was the one that was involved?

19 A. That's likely correct if that's what it says.

11:11:56AM 20 Q. Do you recall if in your investigation that -- would you
21 have had access to the HPD files or the sheriff's office files
22 of the original investigation into the case? Is that
23 something the D.A.'s office would have access to?

24 A. You mean the capital murder?

11:12:16AM 25 Q. Yes.

1 A. Yeah. They would have let me review all of the Houston
2 police reports that were done by the homicide detectives and
3 the other police officers.

4 Q. Okay. And would that include witness statements?

11:12:29AM 5 A. Yes.

6 Q. Okay. So, when Gladys Aldridge was arrested and ended up
7 giving two statements to the police, then that would be
8 included in the record for your review?

9 A. Yes. I'm sure it would have been. If the police -- if
11:12:43AM 10 HPD took those statements, those would have been made
11 available.

12 Q. Okay. And the same for the half brother, Edward Ford, if
13 his statement was in the file, you would have had an
14 opportunity to review that?

11:12:54AM 15 A. Yes.

16 Q. Okay. And the same for James Aldridge, the nephew; is
17 that also correct?

18 A. Yes.

19 Q. Okay. And then another statement from Anthony Aldridge,
11:13:05AM 20 because that's Gladys' son, and another nephew, if his
21 statement was in the file, you would have had an opportunity
22 to review that?

23 A. Yes.

24 Q. Okay. In deciding the extent of his involvement and
11:13:17AM 25 awareness of what is going on with the crime, would it be

1 important to look at statements that people have made about
2 their interaction with him in dealing with him immediately
3 after the crime?

4 A. Yes.

11:13:29AM 5 Q. If those statements -- in fact, if Gladys' statement had
6 said that Mr. Aldridge had told her he did not want the family
7 to be involved because it would be better that way, would that
8 be taken as an indication that he's aware that there may be
9 some trouble?

11:13:58AM 10 A. That's the way I would take it.

11 Q. Do you recall about Edward Ford, the step brother, if you
12 have those reports to review, that Edward Ford has reported
13 that Mr. Aldridge told him there was a robbery and that he had
14 killed someone at McDonald's and stolen the money? Do you
11:14:21AM 15 recall that in the actual report with Edward Ford?

16 A. I don't recall it right now; but if it was in the HPD
17 report, I'm sure that I saw that.

18 Q. If -- in planning his escape or his leaving Houston
19 immediately after the crime, if Mr. Aldridge was, in fact,
11:14:42AM 20 doing some of the driving around in the area, would that be an
21 indication that he's -- he's doing some day-to-day functions,
22 apparently?

23 A. I would consider driving a day-to-day function, yes.

24 MS. HAYES: If I could take just a minute. We have
11:15:43AM 25 covered so much. I am still trying to catch up with my notes.

1 THE COURT: All right.

2 (Pause)

3 MS. HAYES: Your Honor, in order to speed this
4 along, what I would like to do -- we had listed Mr. Davis as
11:16:31AM 5 one of our witnesses. I prepared -- I plan to go ahead and
6 call him on direct, but I could probably go ahead and cover
7 these other matters on my own with direct. But I will just
8 limit my cross for right now to those questions and then just
9 reserve the right to call Mr. Davis back.

11:16:53AM 10 THE COURT: All right. Do you have any redirect?

11 MR. RYTTING: Yes, Your Honor, I do.

12 THE COURT: Do you have any objection to the
13 state doing their cross -- I mean, their direct of this
14 witness at this point while he is on the stand?

11:17:14AM 15 MS. HAYES: I, actually, Your Honor, was intending
16 to have to call him back later and not take care of the direct
17 right now.

18 THE COURT: All right. All right.

19 MS. HAYES: We've covered so much that I wanted to
11:17:23AM 20 make sure I had all bases covered.

21 THE COURT: All right. Go ahead, Mr. Rytting.

22 MR. RYTTING: I have no objection, Your Honor.

23 THE COURT: Okay. Do you have any other questions
24 of this witness?

11:17:33AM 25 MR. RYTTING: Yes, Your Honor. There are a few

1 questions on redirect.

2 THE COURT: All right.

3 **REDIRECT EXAMINATION**

4 **BY MR. RYTTING:**

11:17:52AM 5 Q. The respondent has noted that you sent some writings to
6 Dr. Quijano, but you don't know how he got them or what the
7 communication along -- whether there was any communication
8 with Dr. Quijano about those writings; is that correct?

9 A. I don't remember; but I'm assuming that -- you know, we
11:18:20AM 10 obviously would have supplied them to him and likely spoken to
11 him; but I don't have any independent recollection of that.

12 Q. And she mentioned that you didn't call Gladys Aldridge as
13 a witness, correct?

14 A. Apparently not.

11:18:39AM 15 Q. And you didn't call Judy Turner as a witness?

16 A. I don't remember who Judy Turner is; but I -- if I didn't
17 call her, obviously I didn't.

18 Q. And there's other reasons for interviewing a witness
19 besides presenting them at trial, is there not?

11:19:03AM 20 A. Potentially.

21 Q. Have you had a chance to review the statement of Gladys
22 Aldridge in this case?

23 A. No.

24 Q. I would like to ask you some questions about our
11:19:31AM 25 Exhibit 24, Petitioner's Exhibit 24.

1 MR. RYTTING: Strike that, Your Honor. I don't have
2 questions for this witness about this exhibit.

3 THE COURT: All right.

4 BY MR. RYTTING:

11:20:06AM 5 Q. I do have questions about Judy Turner, which is
6 Petitioner's Exhibit 25. And Ms. Turner was the sister of
7 Mr. Aldridge. Do you understand that?

8 A. I'll take your word for it. I don't remember.

9 Q. She was at the time -- she was born in 1950, according to
11:20:30AM 10 her statement; and at the time of the trial she would have
11 been 40 years old.

12 But instead you called a niece -- two nieces,
13 Virginia and Cheryl Aldridge -- at the time I believe their
14 age was 13 and 17 -- who talked about Mr. Aldridge, correct?

11:20:48AM 15 A. Frankly, I don't recall them at all.

16 Q. And you wouldn't argue if their testimony indicated that
17 they had limited contact with Mr. Aldridge?

18 A. If that's what it says, I have no argument with that.

19 Q. Actually, Judy Turner's statement reflects that
11:21:07AM 20 Mr. Aldridge, after he got out of prison, came to live with
21 her.

22 A. Okay.

23 Q. In fact, while he was living with her, he exhibited
24 extraordinarily strange behavior. For example, according to
11:21:25AM 25 Ms. Turner, she had 6 and 7-year-old children who were scared

1 to talk with him and asked her if he was crazy. She reports
2 that Garfield talked to himself a lot. And Garfield is the
3 middle name of Mr. Aldridge. "He talked loud. He woke me up
4 a couple of times, and the den is not close to my bedroom.

11:21:48AM 5 I've seen people who have been in war and are shell shocked.
6 Garfield was like that. He was jumpy and nervous all the
7 time. I never remember him sleeping."

8 And she goes on to say that "The kids told me
9 that Garfield was seeing ghosts" and describes -- goes on to
11:22:07AM 10 describe his strange behavior. She also gives a little bit
11 about the family history, about the mother who had some
12 strange habits, indicating that this may have been a -- there
13 might be some genetic basis to his mental illness. Don't you
14 think that would have been -- is that not some evidence
11:22:33AM 15 raising a doubt about Mr. Aldridge's competency?

16 A. I don't know if it is competency. I know he's got mental
17 problems, though. I think it shows that he has mental
18 problems. As far as I was concerned, I relied on the report
19 by Dr. Quijano and my own belief that he was competent.

11:22:52AM 20 Q. And, again, it shows clearly a history of very strange,
21 bizarre behavior on the part of your client?

22 A. Yeah. There's no question he's different.

23 Q. So, too, in the statement of Brenda Garrett, she actually
24 described strange behavior during the time of trial
11:23:16AM 25 proceedings. Would you argue with that?

1 A. I don't remember it; but I'm sure that's probably
2 correct, if that's what's there.

3 Q. And she confirms, I believe, that Mr. Aldridge thought
4 that you were part of a conspiracy against him.

11:23:36AM 5 A. He never indicated as much to me, that I recall. Again,
6 I don't recall him being overtly hostile to Randy or me; but,
7 again, I don't remember specifics.

8 Q. In particular, Paragraph 20 of this statement, of
9 Petitioner's 26, page 4, Paragraph 20, Brenda states, "I
11:24:28AM 10 visited Garfield when he was in the county jail. He was
11 awaiting trial for killing Mr. Stone. We had moved." She
12 explains where she lived; and she goes on to say, "I remember
13 trying to explain to Garfield that his lawyers were trying to
14 help him. He would say they -- I would say, 'They are here to
11:24:50AM 15 help you.' He did not want to hear it. He would tell me that
16 his lawyers and the judge were against him. He did not want
17 anything to do with his lawyers. He said he wanted a
18 different judge and different attorneys. A lot of the
19 conversation was Garfield telling me how his lawyers were
11:25:06AM 20 trying to put the blame on him for things other people were
21 doing. He would give me the names of people that committed
22 the crimes, very strange names. They were like names from
23 another language."

24 A. Well, as far as -- I don't mean to make light of it; but
11:25:30AM 25 when you are an appointed lawyer over in the county jail,

1 they call you -- they say you're, as the prisoners call it, a
2 free-world lawyer. And there are a lot of defendants, a lot
3 of prisoners, who felt because you were appointed by the Court
4 or by the state, that you were in league with the prosecutors.

11:25:52AM 5 And that was a fairly common thing over there. So, I don't
6 know if he picked some of that up from other prisoners, you
7 know, at least that aspect; but that wasn't an unusual feeling
8 among the population of the Harris County Jail, I can tell you
9 that.

11:26:09AM 10 Q. Well, the reason for... he was a normal person and a
11 normal criminal, if there is such a thing, is skeptical about
12 appointed lawyers is because he is mentally ill. Isn't that
13 fair to say?

14 A. Well, he is mentally ill; but, again -- he had strange
11:26:25AM 15 beliefs, but it wasn't like this guy was just out of his mind
16 when we were talking to him. He appeared to be coherent. You
17 could speak to him about what was going on. He seemed to
18 understand what was going on. He would speak to us. He had
19 odd beliefs.

11:26:46AM 20 Q. So, I think we covered this area; but just to close, his
21 behavior didn't strike you as odd, just what he was telling
22 you?

23 A. Well, certainly what he was doing struck me as odd; or I
24 wouldn't have asked Dr. Quijano to take a look at him.

11:27:57AM 25 MR. RYTTING: I'll pass the witness, Your Honor.

1 THE COURT: All right. Thank you.

2 Anything further?

3 MS. HAYES: No, Your Honor. We will go ahead and
4 reserve everything for redirect.

11:28:08AM 5 THE COURT: All right. Thank you, Mr. Davis. You
6 may step down.

7 THE WITNESS: Thank you, sir.

8 THE COURT: Subject to being recalled later on.

9 THE WITNESS: Yes, sir.

11:28:13AM 10 THE COURT: All right. Thank you.

11 (Witness released)

12 THE COURT: Who is your next witness?

13 MR. RYTTING: Yes, Your Honor.

14 THE COURT: Who is your next witness?

11:28:18AM 15 MR. RYTTING: I'll call Dr. Quijano.

16 THE COURT: All right. Dr. Quijano.

17 Would you come forward and raise your right
18 hand, please, to be sworn in.

19 (**WALTER QUIJANO**, Petitioner's witness, Sworn.)

11:28:45AM 20 THE COURT: All right, Doctor. If you will have a
21 seat in the witness chair, please, sir.

22 **DIRECT EXAMINATION**

23 **BY MR. RYTTING:**

24 Q. Dr. Quijano, could you identify yourself to the Court?

11:29:02AM 25 A. My name is Walter Quijano, Q-U-I-J-A-N-O.

1 Q. Would you briefly state some of your qualifications and
2 training?

3 A. I have a Bachelor's degree in general psychology, a
4 Master's degree in clinical psychology, Ph.D. in clinical
11:29:26AM 5 psychology. I have completed all the education and training
6 experience requirements to be licensed as a psychologist by
7 the Texas State Board of Examiners of Psychologists.

8 I have worked both in the private and public
9 sector. I have a short stint at the Federal Correctional
11:29:50AM 10 Institution in Terminal Island. I was staff psychologist at
11 the Texas Department of Corrections. I was chief psychologist
12 in a state hospital in Oklahoma, Eastern State Hospital in
13 Oklahoma. I was program director in a private hospital,
14 alcoholism treatments, in Oklahoma and then in San Antonio. I
11:30:21AM 15 returned to the then Texas Department of Corrections to be
16 director of psychiatric services and chief psychologist.

17 Around the mid-'80s I opened a private practice
18 in Conroe, Texas, where I have worked since. I have private
19 general clinical psychology patients. I have forensic work
11:30:50AM 20 doing competency and insanity evaluations for the local
21 district courts in surrounding counties. I do evaluations and
22 treatment for juvenile and adult probation.

23 Q. And you were retained by Doug Davis and Randolph Bates to
24 examine Rulford Garfield Aldridge at his -- prior to his trial
11:31:26AM 25 in 1990, correct?

1 A. Yes.

2 Q. And you produced a report that we entered as Exhibit 8.

3 And I would like to hand you this report. Do
4 you recognize that report as the report you made in this case?

11:32:12AM 5 A. Yes.

6 Q. And you came to a conclusion about Mr. Aldridge's mental
7 illness, did you not?

8 A. Yes.

9 Q. And what was the diagnosis that you arrived at?

11:32:30AM 10 A. Schizophrenic disorder, paranoid type.

11 Q. And what type of mental illness is schizophrenia,
12 paranoid type?

13 A. Schizophrenia is a thinking disorder, a major thinking
14 disorder where there is an abnormality in the content of the
15 thought and in the manner of thought.

11:33:02AM 16 Q. And would you describe Mr. Aldridge's mental illness as a
17 severe mental illness?

18 A. Yes.

19 Q. And why is that?

11:33:16AM 20 A. Because it is. It is schizophrenic, and he has both
21 disorders of content and process.

22 Q. What is a disorder -- could you describe both of those,
23 if you would?

24 A. Content means what he thinks about is abnormal. It is
11:33:43AM 25 not what most of us think. And process is the way he thinks,

1 the flow of his thinking, gets derailed.

2 Q. And were those -- are those symptoms of schizophrenia?

3 A. Yes.

4 Q. And were those present during your interview --

11:34:07AM 5 A. Yes.

6 Q. -- of Mr. Aldridge?

7 A. Yes.

8 Q. Would you describe him as pervasive?

9 A. Yes.

11:34:13AM 10 Q. And was he suffering, at the time you interviewed him,
11 from hallucinations and delusions?

12 A. He -- he made -- sent messages or sent indications that
13 he was.

14 Q. Was there any doubt in your mind, at the time of the
11:34:44AM 15 interview, that he was ex -- that he was delusional?

16 A. That he was delusional? No, there was no doubt.

17 Q. And was his delusion -- did his delusion -- what did his
18 delusions involve, in particular?

19 A. Many delusions, being persecuted by bias people.

11:35:06AM 20 Q. Were these delusions connected with his legal system in
21 any way -- his legal situation in any way?

22 A. The one delusion that he talked about, that would be the
23 victim of a case was sexually assaulting him.

24 Q. That was one of them. Were there not many others in your
11:35:29AM 25 report that you -- you recorded and described?

1 A. Many other --

2 Q. Delusional beliefs.

3 A. Related to the offense, this is what I can remember.

4 There may be others; but directly related to the offense, this

11:35:47AM 5 is -- this is the one most directly related to it.

6 Q. That's the most directly related to it, but he had others

7 that were not about -- that are connected with what appears

8 maybe to a layperson as religious beliefs?

9 A. Yes, but it had nothing to do with the murder. The

11:36:35AM 10 murder was strictly related, according to his version, to the

11 victim having assaulted him -- sexually assaulted him.

12 Q. Wasn't there some connection with his destiny of going to

13 Iran or going to a Muslim country?

14 A. Not directly related to the murder, but the -- there was

11:37:04AM 15 some relationship about somebody or somebody's preventing him

16 from going to a Muslim country. He had many other delusions

17 that were not related to the murder.

18 Q. Okay. In the course of examining Mr. Aldridge, did you

19 have any question about whether he actually believed what he

11:37:56AM 20 was telling you?

21 A. No. Because if you ask him, if you believe what you have

22 been telling me for the last hour or so, he would say: Yes, I

23 believe.

24 Q. Okay. Was there -- what is malingering?

11:38:14AM 25 A. There are two types of malingering. One would be a

1 person who is not mentally ill who presents himself as
2 mentally ill or, more commonly, a mentally ill person who
3 exaggerates his mental illness. He is mentally ill; but he
4 exaggerates mental illness, depending on the secondary gains
11:38:39AM 5 that he may be able to derive.

6 Q. And was there any indication that Mr. Aldridge was
7 malingering his illness?

8 A. The illness, no. The exaggeration -- the hearing voices
9 in my presence, looking under tables and chairs like that,
11:39:00AM 10 that is suspicious behavior; but overall he is mentally ill.

11 Q. And have you seen any records since then that indicated
12 that his men -- his behavior and his hallucinations continued?

13 A. Well, yes. Yes. He hallucinates and has delusions. It
14 is when you are actively hallucinating in front of people,
11:39:29AM 15 that it becomes suspicious. Because generally these people
16 can, what is called, compensate. They can pull themselves
17 together long enough to not be actively ill in front of
18 people.

19 Q. But there was no indication in your report that
11:39:48AM 20 Mr. Aldridge engaged in any of that, is there?

21 A. No. In my report I report in paragraphs descriptions of
22 how he would behave, that he would appear like he was
23 listening to somebody talking to him or -- he said "somebody."
24 I would put that in quotation marks -- not quotation marks but
11:40:19AM 25 parentheses.

1 Q. And, in fact, Mr. Aldridge, when you did his history, he
2 denied any previous psychiatric problems.

3 A. Well, he is not convinced he is mentally ill.

4 Q. Okay. He has no insight into his condition?

11:40:37AM 5 A. Correct.

6 Q. And that's another indication that he's not malingering;
7 isn't that true?

8 A. He is not malingering that he is mentally ill. He can
9 malingering -- he can exaggerate the degree or the intensity of
11:40:59AM 10 the illness.

11 Q. Well, you say he can; but -- I just want to make sure.
12 In this report at least, you don't say that he did; is that
13 correct?

14 A. In this report there is no statement saying that he
11:41:08AM 15 malingered by exaggeration.

16 Q. So, when he gives you a -- when your report reflects that
17 he said, for example, "The guy" -- referring to who knows
18 what -- "surrounded by a white supremacist effort camouflaged
19 as a Muslim but actually working for prison officials had a
11:41:39AM 20 vision of Rulford being the Muslim messiah described in Muslim
21 literature. The guy in the supremacist devised a plot to
22 prevent division in the Middle East from coming to life. The
23 victim, who was made to feel little about himself, was set up
24 by the guy and the supremacist to prevent the trip to the
11:41:59AM 25 Middle East."

1 That's something that Mr. Aldridge believed,
2 right?

3 A. Yes.

11:42:09AM

4 Q. And he could not distinguish that from other things we
5 consider real.

6 A. Yes.

7 Q. And once more, this is another delusional belief; is that
8 correct?

9 A. Yes.

11:42:18AM

10 Q. And it is connected with his legal situation?

11 A. Yes.

12 Q. In particularly the murder in this case?

13 A. Yes.

14 Q. These firmly held sincere beliefs of Mr. Aldridge.

11:42:31AM

15 MS. HAYES: What page were you on?

16 MR. RYTTING: This is page 6 of our Exhibit No. 8.

17 BY MR. RYTTING:

18 Q. And it goes on, "They knew Rulford did not believe in
19 weapons, and they had to devise a way for him to have one.

11:42:56AM

20 One day he was fired upon on the way to work; but he still
21 refused to get one because he believed all life was sacred and
22 he had no right to interfere, no matter how diabolic, unless
23 it affected they" -- meaning the victim -- "began to sexually
24 assault him at work and the deceased was a participant. The
11:43:15AM 25 guy felt that was a soft spot in him, as told by the white

1 supremacist. The victim followed him around, and Rulford
2 could feel sexual assault as the victim stood behind him. The
3 victim then told Rulford on many occasions that the only way
4 he could stop sexually molesting him was for Rulford to kill
11:43:37AM 5 him."

6 Now, again, this was reported by you. And I
7 will ask again. These are statements that Mr. Garfield
8 believes; is that correct?

9 A. Yes.

11:43:45AM 10 Q. Okay. And he believed them at the time of the interview?

11 A. Yes.

12 Q. And those are firm beliefs of his?

13 A. Yes.

14 Q. He cannot be moved off, in your opinion, from those
11:43:57AM 15 beliefs?

16 A. Yes. Most paranoias are immovable.

17 Q. So, it is fair to say that not only during the interview
18 but even afterwards, Mr. Aldridge held beliefs such as this?

19 A. Yes.

11:44:19AM 20 Q. And likely the very same constellation of beliefs about
21 being assaulted, about being sexually molested, and so forth,
22 as an explanation for his legal situation. Is that fair?

23 A. His explanation, yes.

24 Q. And he actually believed that?

11:44:36AM 25 A. Yes.

1 Q. And you would expect, in your view, he maintained and
2 retained those beliefs even throughout the proceedings against
3 him?

4 A. Yes.

11:44:46AM 5 Q. There was no possibility, really, that Mr. Aldridge got
6 better and stopped holding beliefs such as this about why he
7 was in the legal predicament he was; is that correct?

8 A. Correct.

9 Q. Let me return briefly to the issue of whether he could
11:45:33AM 10 exaggerate or did exaggerate. Now, Mr. Aldridge did not
11 believe he was mentally ill, correct?

12 A. I don't think so.

13 Q. So, how would he be able to exaggerate his mental
14 illness?

11:45:47AM 15 A. By claiming things that are not going on.

16 Q. I guess the point is this: If he doesn't believe he is
17 mentally ill and doesn't want other people to believe he is
18 mentally ill -- I mean, is that fair to say, he didn't want
19 people to think he was crazy?

11:46:07AM 20 A. Uh-huh.

21 Q. And there was no -- then what motivation would he have to
22 exaggerate his mental illness?

23 A. Secondary gains. Why mentally ill people exaggerate,
24 because when they exaggerate, they get some benefits out of
11:46:35AM 25 the exaggeration.

1 Q. That puts some insight into their mental illness. You
2 just testified he didn't appear to have any.

3 A. No. He may not see himself as mentally ill; but he knows
4 that when he exaggerates, he gets certain things and when he
11:46:54AM 5 doesn't, he doesn't get certain things. That much he knows.

6 Q. But, Dr. Quijano, I guess the point I would like to make
7 is -- even if he is exaggerating, let's say, he believes those
8 exaggerations; was that correct?

9 A. I mean, you can say that he believes his exaggeration.

11:47:31AM 10 Q. He actually thinks this is true, what he told you is
11 true. We've gone over that, correct?

12 A. From his perspective, yes.

13 Q. Okay. I need to go over some of the relationship that --
14 the relationship between you and the attorneys in this case.

11:48:08AM 15 Do you recall any conversations with Mr. Davis or Mr. Bates
16 about Mr. Aldridge?

17 A. I don't recall specific incidents; but, yes, we had a
18 series of conversation. But I cannot tell you who, when, what
19 we talked about.

11:48:26AM 20 Q. You believe you had a series of conversations. And was
21 this something that you testified to in deposition, a memory
22 of a series of conversations?

23 A. I cannot remember specific instances; but given the
24 gravity of this case, the complexity of the case, it is

11:48:58AM 25 improbable that the expert and the lawyers would not talk.

1 And so, I cannot tell you how many times, where, what topics
2 were discussed each time; but we discussed the case.

3 Q. So, it could be that you didn't discuss it at all?

4 A. Huh?

11:49:16AM 5 Q. It could be that you had no meaningful discussion at all,
6 nothing --

7 A. No. That's improbable. That is almost insulting to me
8 and to Davis.

9 Q. Well, the report was produced when? When was this report
11:49:31AM 10 produced?

11 A. May the 15th.

12 Q. And trial began May the 14th?

13 A. Yes.

14 Q. So, they did not have the forensic report until May the
11:49:45AM 15 15th.

16 A. They didn't have a written report.

17 Q. Is that your usual practice, to hold off on the written
18 report until after trial has begun?

19 A. It is not usual, but it happens many times -- it just
11:50:00AM 20 happened two weeks ago -- when all the data prepared, ready to
21 go; but it is not written down because you wait for the
22 last-minute changes, last-minute data.

23 Q. What last-minute data came in in this case?

24 A. No. I'm saying you don't -- you ask me whether it is
11:50:40AM 25 usual for me to write reports after the case. I said no.

1 There have been instances, it just happened two weeks ago,
2 where I have the data ready to go and have been discussed with
3 the lawyers, but I have not written the report.

4 Q. But in this case, though, was there -- is there any
11:51:05AM 5 indication that you received last-minute data?

6 A. It could be that we were in constant communication as he
7 was doing during the trial, during -- who knows, 20 years ago.

8 Q. Constant communication?

9 A. It could be that that's how it happened. Because it is
11:51:25AM 10 improbable that we would not -- we would not talk.

11 Q. But you have no recollection of this?

12 A. I do not have specific dates, times, when, with whom,
13 phone, person, no specifics like that, sir.

14 Q. Do you have any billing records or anything like that
11:51:45AM 15 that would indicate that you spent an exceptional amount of
16 time on this case?

17 A. No. The state does not pay for that kind of work anyway.

18 Q. So, you're basically speculating about that constant or
19 continuous or frequent communications?

11:52:06AM 20 A. No, that's not a speculation. That is sure. But you are
21 speculating that I did not talk to him.

22 Q. Well, you may have talked to him; but you have no
23 recollection --

24 A. No, no, no.

11:52:17AM 25 THE COURT: One at a time, please.

1 A. I talked to him.

2 BY MR. RYTTING:

3 Q. When?

4 A. That's what I am telling you. I did not -- 20 years ago.

11:52:24AM 5 I cannot tell you when, how, where; but I definitely talked to
6 him.

7 Q. How long?

8 A. Long enough, necessary for the case; but I cannot tell
9 you how long.

11:52:35AM 10 Q. Was it an hour-long conversation?

11 A. No. More than that. This is a complicated case. This
12 is a very serious case.

13 Q. Do you have -- do you have -- this is a complicated case,
14 and you didn't produce the report for your attorneys until
11:53:10AM 15 after the trial had started.

16 A. I didn't produce a written report until May the 15th.

17 Q. And if the Attorney General is correct, the last piece of
18 evidence that you had was -- came in at voir dire, which
19 started the previous month, and it was several writings; is
11:53:32AM 20 that correct? Do you remember that --

21 A. I don't remember that.

22 Q. -- from Doug Davis' testimony?

23 You were present when Doug Davis testified,
24 correct?

11:53:42AM 25 A. Yes, but I don't remember that.

1 Q. And you also were present when he said he doesn't
2 remember talking with you at all, he just assumes he must
3 have?

4 A. He never talked to me?

11:53:52AM 5 Q. Well, you were present when he said he didn't have any
6 recollection. And you are here now saying that you may have
7 talked with him for hours about a complicated case.

8 MS. HAYES: Objection, Your Honor. I know the
9 record will speak for itself; but, you know, he's not saying
11:54:06AM 10 he doesn't have a recollection of never talking to him. It
11 has always been he can't tell the specifics. It has been
12 19 years. So, you've got to give a little bit of leeway.

13 THE COURT: I understand. I understand.

14 BY MR. RYTTING:

11:54:32AM 15 Q. Now, in your -- when determining the competency in a
16 complicated case like this, Mr. -- Dr. Quijano, is it
17 important to examine the witness near the time of trial?

18 A. At the time the question of competency is raised, that is
19 when I examine them.

11:55:02AM 20 Q. Yes. But is it -- does competency -- does the level of
21 competency change?

22 A. Yes.

23 Q. In a complicated case with a serious mental illness such
24 as this, is it important to monitor the client?

11:55:16AM 25 A. Yes.

1 Q. Would you recommend that at least another psychiatric or
2 psychological investigation or evaluation take place?

3 A. No.

4 Q. Isn't that -- I sat in your office only a couple of days
11:55:29AM 5 ago in which you said that a competency examination near the
6 time of trial should take place.

7 A. Because you ask different questions each time. So, I
8 give difference answers. You asked me in the office if the
9 lawyer sees evidence of incompetency, would I recommend a
11:55:53AM 10 reexamination hearing? I said yes. But if you mix one or
11 two words or one or two phrases, the question changes; and the
12 answer changes.

13 Q. Okay. And you saw the testimony -- you've read the
14 testimony of Dr. Bates -- I mean, Mr. Bates, the trial
11:56:07AM 15 attorney, did you not?

16 A. Mr. Who?

17 Q. Mr. Bates, Randolph Bates, the second chair in this case.

18 A. Yes.

19 Q. And you were here when his testimony was read in this
11:56:19AM 20 court, correct?

21 A. Yes.

22 Q. And he said conversations with his client are irrational
23 and that he thinks that there's people out there during the
24 interview, during the attorney/client interview. Now, is that
11:56:29AM 25 reason to have this client examined?

1 A. No.

2 Q. Why isn't it a reason to have a client examined?

3 A. You cannot confuse mental illness with incompetent. If
4 the person is mentally ill, hallucinating, delusional,

11:56:55AM 5 whatever, that's one question. The next question is: Is he
6 competent? Can he understand the proceedings in court? If he
7 does, it does not matter whether he is mentally ill or not.

8 He is competent. You have to have both. If you are mentally
9 ill and incompetent or incompetent alone, you can raise the
11:57:17AM 10 issue; but mental illness alone, particularly if it had been
11 ruled out already, it is not raised each time.

12 Q. You came to the conclusion that he was competent to stand
13 trial, correct?

14 A. Yes.

11:57:36AM 15 Q. But you realize that other reasonable psychologists who
16 obtained the same results that you did by interview could come
17 to a different conclusion, correct?

18 A. Another psychologist can come to a different conclusion;
19 but if that psychologist follows the law, he would come to the
11:57:58AM 20 same conclusion that I did.

21 Q. I would like to show you your deposition.

22 MS. HAYES: Improper predicate, Your Honor. We
23 object that he is trying to impeach him this way.

24 THE COURT: What is the purpose of the deposition?

11:58:22AM 25 MR. RYTTING: Impeachment, Your Honor.

1 THE COURT: All right. The question you asked him
2 that you're going to impeach him on?

3 MR. RYTTING: I'm going to ask him whether he said
4 in deposition that other professionals --

11:58:30AM 5 MS. HAYES: Your Honor, I object to him reading the
6 question aloud. He still has to have the proper predicate
7 before he impeaches. If he reads the question, then he's just
8 circumventing around to being able to lay the proper
9 foundation before he impeaches.

11:58:41AM 10 THE COURT: All right. Sustained.

11 BY MR. RYTTING:

12 Q. Do you recall giving a deposition in this case?

13 A. Yes.

14 Q. And do you recall being asked the following question:

11:59:07AM 15 "QUESTION: I just want to clarify that you
16 told me that this wasn't a clear-cut case?"

17 MS. HAYES: Objection, relevance.

18 THE COURT: Overruled.

19 BY MR. RYTTING:

11:59:22AM 20 Q. And do you recall how you responded?

21 A. Repeat the question for me.

22 Q. I asked when it came -- when it came to determining
23 competency, I asked you, "I just want to clarify that you told
24 me that this wasn't a clear-cut case?"

11:59:39AM 25 A. Yes.

1 Q. And your answer was?

2 A. Read me the answer.

3 Q. "Correct." And you answered: "Correct."

4 A. Yeah.

11:59:46AM 5 Q. And it goes on, "And other professionals -- reasonable
6 professionals could disagree with that judgment?"

7 MS. HAYES: Objection, again, Your Honor. This is,
8 again, leading towards impeachment that's not the proper
9 foundation...

12:00:00PM 10 THE COURT: I understand. I am going to let him go
11 ahead.

12 MS. HAYES: Just for the record, could you tell us
13 what page you're on?

14 MR. RYTTING: We're on page 85 of the deposition.

12:00:10PM 15 BY MR. RYTTING:

16 Q. And do you recall moving your head up and down?

17 A. No.

18 Q. And if the record reflected that you did, would that
19 indicate an affirmative answer on your part?

12:00:22PM 20 A. Yes.

21 Q. Okay. And do you recall this question being asked next
22 in the deposition: "I just want to make sure that the reason
23 they might disagree is that they" --

24 THE COURT: You can have a running objection.

12:00:31PM 25 MS. HAYES: Thank you, Your Honor.

1 BY MR. RYTTING:

2 Q. -- "is that although you didn't find that the evidence
3 warranted the conclusion that he wasn't competent to stand
4 trial, that doesn't mean that there was significant and
12:00:41PM 5 substantial evidence in the record from which a reasonable
6 psychologist could conclude that there was an issue of
7 competency."

8 Do you remember that question?

9 A. Yes.

12:00:48PM 10 Q. And you answered: "Correct." Do you recall giving that
11 answer?

12 A. Yes.

13 Q. Okay. If I may go on, do you recall this question being
14 asked at the deposition that there was -- "I mean, this isn't
12:01:27PM 15 sort of a thin case, an obvious case, where you have to piece
16 through the evidence and come up with a story about how this
17 guy might understand what is going on. There is very solid
18 indications that he could have serious trouble comprehending
19 the nature of the charges."

12:01:42PM 20 THE COURT: Page and line, please.

21 MR. RYTTING: Page 85 through page 86, lines 23
22 through line 5.

23 MS. HAYES: Just to clarify, does my running
24 objection continue through all different categories of the

12:01:54PM 25 impeachment; or do I need to reallege as to each different --

1 THE COURT: No. It continues all through this.

2 MS. HAYES: Thank you, Your Honor.

3 BY MR. RYTTING:

4 Q. "There is very solid indications that he could have
5 serious trouble comprehending the nature of the charges -- I
6 mean, not the nature of the --

7 THE REPORTER: Please start reading from the
8 beginning, please.

9 BY MR. RYTTING:

12:02:14PM 10 Q. The question is: "I mean, this isn't sort of a thin case
11 and obvious where you have to piece through the evidence and
12 come up with a story about how this guy might not understand
13 what is going on. There is very solid indications that he
14 could have serious trouble comprehending the nature of the
12:02:33PM 15 charges -- I mean, not the nature of the charges against him
16 but serious trouble assisting his attorneys."

17 And, again, if the record reflected that you
18 moved your head up and down, would you disagree with it?

19 A. Who was talking when you just quoted?

12:02:48PM 20 Q. I was the one talking.

21 A. Okay.

22 Q. And you agreed?

23 A. Yes.

24 Q. And very -- the next question, at line 7, page 86: "And
12:02:58PM 25 very serious trouble at arriving at a factual and rational

1 understanding of the proceedings."

2 And you gave an answer. "His," meaning the
3 biggest argument in favor of this would be -- well, do you
4 remember what your answer was?

12:03:13PM 5 A. No.

6 Q. "His biggest argument would be that he wants me to
7 present a delusional defense. I don't want to go with that.
8 So, we are at odds," meaning the attorney and you.

9 A. Yes.

12:03:25PM 10 Q. And you agreed with that, correct?

11 A. Yes.

12 Q. You also gave -- provided an affidavit in this case, did
13 you not?

14 A. Yes.

12:04:34PM 15 MR. RYTTING: If I may approach the witness?

16 THE COURT: You may.

17 BY MR. RYTTING:

18 Q. Do you recognize that?

19 A. Yes.

12:04:42PM 20 Q. And one of the things you say in this affidavit is
21 that -- well, if you would, read Page 2, the second full
22 paragraph.

23 A. My May 15, 1990 evaluation indicates that Mr. Aldridge
24 suffered from schizophrenia. The narrative that I obtained
12:05:21PM 25 from Mr. Aldridge in advance, leading to his arrest, is

12:05:43PM 1 also... with association of content. Although I concluded
2 that Mr. Aldridge was competent to stand trial, other
3 professionals in my field certainly could have reached the
4 opposite conclusion. If counsel consulted with me about my
5 report, I would have to inform them of this.

6 Q. Is that a true statement?

7 A. Yes.

8 Q. And on page 3, I would like to call your attention to the
9 third full paragraph, starting with "federal habeas counsel."
10 If you would, read that.

11 A. "Federal habeas counsel has provided me with a statement
12 by Gladys Aldridge. The statement describes Mr. Aldridge's
13 behavior while incarcerated on a 1972 burglary charge. The
14 statement indicated that the onset of Mr. Aldridge's psychosis
15 may have occurred 10 years or more before trial. This is

16 important forensic information that I did not have when I
17 finalized my May 15, 1990, report. For one thing the history
18 of bizarre conduct and beliefs is evidence that Mr. Aldridge
19 was not malingering near the time of trial. For another thing
20 the statement shows that Mr. Aldridge's delusional thinking

21 was associated with his experience in and perception of the
22 criminal justice system. This is also important psychological
23 information. This history suggests that symptoms of
24 Mr. Aldridge's mental illness would become more acute and
25 pervasive in the courtroom than they were within the more

1 controlled and less confrontational setting of a forensic
2 psychological interview."

3 Q. And is that a true statement?

4 A. Yes.

12:07:37PM 5 Q. And, finally, might as well continue with this exhibit,
6 you read the second full paragraph. The third full paragraph,
7 if you would, read what you have wrote there on page 3 -- or
8 what you agreed to on page 3.

9 A. "Federal habeas counsel has provided me with the trial
12:08:46PM 10 testimony of co-counsel, Randolph Bates. Mr. Bates testified
11 that during attorney/client interviews, there would be times
12 when he would ask Mr. Aldridge a question; and he would
13 respond appropriately to the question. There would be times
14 when he would ask Mr. Aldridge questions, and his answer had
12:09:11PM 15 nothing to do with what I asked him about. Mr. Bates also
16 testified that during attorney/client interview, Mr. Aldridge
17 talked quite a bit about spirits controlling people and
18 conspiracies and different groups of people out to get him."

19 Q. And if you turn over to the next page where the paragraph
12:09:30PM 20 continues on page 4.

21 A. "Mr. Bates characterized his communications with
22 Mr. Aldridge as quite odd and irrational. I was not informed
23 of trial counsel's specific problems. It is my forensic
24 psychological opinion that trial counsel's direct testimony
12:09:50PM 25 that his client was paranoid, delusional, and irrational

1 during attorney/client communications is clear evidence that
2 Mr. Aldridge was not presently able to consult with counsel
3 with a rational degree of understanding."

4 Q. Is that a true statement?

12:10:07PM

5 A. Yes.

6 Q. So, it is your forensic -- which means that Mr. Aldridge,
7 in your forensic psychological opinion, was not competent at
8 trial.

9 A. No. He was competent when I saw him.

12:10:23PM

10 Q. So, when you saw him?

11 A. Yes.

12 Q. So -- which is different from making a conclusion that he
13 was competent at trial?

14 A. No. I wasn't asked to conduct -- to examine him during
15 trial.

12:10:39PM

16 Q. To make a determination, wouldn't you need to examine him
17 close to the time of trial?

18 A. If I were to make another determination --

19 Q. To make a determination, would you not need to examine
20 him close to the time of trial?

12:10:52PM

21 A. If I was asked to do another opinion, then I would have
22 to re-examine him.

23 Q. To form an opinion about whether he was at trial --

24 A. Yes.

12:11:07PM

25 Q. -- at trial he was competent, you would need to examine

1 him again?

2 A. Yes.

3 Q. Dr. Quijano, you said a little while ago that people,

4 even if they have a major disorder like Mr. Aldridge's,

12:12:03PM 5 specifically schizophrenia, can pull themselves together and

6 act competent in front of others. Is there anything in the

7 scientific literature or psychological history that you can

8 point to in which this has been confirmed?

9 A. Of course.

12:12:21PM 10 Q. What?

11 A. There is periods of waxing and waning of schizophrenia.

12 There is periods of --

13 Q. Maybe you misunderstood the question. I asked the

14 question in the literature, psychological literature. That

12:12:38PM 15 means in the journals, the professional publications.

16 And just to clarify, I believe you said that

17 they could not stop hallucinating; is that correct? Did you

18 say that they could stop hallucinating?

19 A. Yes.

12:13:11PM 20 Q. By a force of will, is that what you meant?

21 A. No.

22 Q. They just may be --

23 A. In the course of the illness.

24 Q. So the record won't reflect, then, that -- if the record

12:13:30PM 25 reflects that you said that they can choose to stop actively

1 hallucinating in front of others, that would be a mistake on
2 your part, if you said that, correct?

3 A. No. That's not a mistake. People can stop hallucinating
4 when their attention is directed to something else. There
12:13:52PM 5 is -- in the DSM-III there is a diagnosis modification called
6 remission -- schizophrenia, in remission -- meaning at that
7 period of time, schizophrenia is not active. So, it is a very
8 acknowledged phase of illness that people who are mentally ill
9 are not mentally ill 24 hours a day; and those who are, are
12:14:20PM 10 most likely malingering.

11 Q. There is no indication anywhere that Mr. Aldridge was in
12 remission at any time, is there?

13 A. When a mentally ill person, such as a schizophrenic, goes
14 through maybe two or three days when they don't... he is in
12:14:49PM 15 remission at that moment.

16 Q. Do you have any evidence that that happened in this case?

17 A. No. But from what I hear in the testimony, there were
18 times when they were able to discuss the case rationally,
19 coherently. That is a remission phase.

12:15:07PM 20 Q. You would say that -- you would say that a client or a
21 patient was in remission phrase based on testimony like that?

22 A. Well, you are asking me for an example. I said if the
23 person -- if a schizophrenic person is ever to converse with
24 you for an hour to two hours coherently, of course he's in
12:15:34PM 25 remission for those two hours.

1 Q. And you are assuming that that actually happened in this
2 case?

3 A. No. I'm not assuming anything. I'm answering your
4 question that there is a such thing as remission in mental
12:15:43PM 5 illness.

6 Q. But I am talking about this case. You have no evidence
7 that that ever happened in this case?

8 A. No, I have no evidence. I am telling you that mentally
9 ill people can conduct long conversations without being,
12:15:58PM 10 quote, crazy at the time.

11 Q. Some mentally -- I'm talking about Mr. Rulford Garfield
12 Aldridge.

13 A. He can, too. He did with me during the competency.

14 Q. Okay. During your exam -- this is your example of a long
12:16:15PM 15 conversation?

16 A. Yeah.

17 Q. That indicates he was in remission?

18 A. Read my report carefully, and you will see that the first
19 part of the interview where he was a free flowing -- he was
12:16:33PM 20 given time to tell his story, a very, very crazy story. When
21 that was done, we went into the next phrase of the
22 examination, which was competency. Very directed questions.
23 Do you understand this? Do you understand that? He did very
24 well during that phase of the examination.

12:18:14PM 25 Q. When you said that this -- you indicated that this

1 interview here indicated that he was in remission.

2 A. During the phase -- there are phases in a conversation
3 when a schizophrenic person can remit or can put aside the
4 active mental illness and focus on the business; and then if
12:18:37PM 5 you allow them to do a free-flowing type of conversation,
6 then, of course, they will go back to free associating.

7 Q. And that's what you think remission is?

8 A. (No response.)

9 Q. Correct?

12:18:55PM 10 A. What's the question?

11 Q. You think that that would be an example of remission,
12 what you are talking about?

13 A. Yes. That's an example of a mental illness that at the
14 moment is not active.

12:19:08PM 15 Q. And, again, that's your understanding of the term.
16 That's what you believe is in the literature. That's what you
17 think is -- what a good psychologist refers to when they talk
18 about the remission of an illness or a remission of a mental
19 illness?

12:19:28PM 20 A. A time during which an active illness is not active.

21 Q. There's nothing in your report that indicates that, for
22 any part of it, he was not actively mentally ill?

23 A. Well, it doesn't say so; but if you read it, you know
24 when you go to the competent portion, it is a very smooth
12:20:06PM 25 interview. There were no gestures of: I'm hearing things.

1 I'm seeing things. He answered questions directly. He was
2 very, very goal oriented during that phase.

3 Q. Now, you testified -- you mention in your report that
4 Mr. Aldridge has, I guess, a flat or blunted affect.

12:20:45PM 5 A. Yes.

6 Q. And that is an indication or a sign of his illness; is
7 that correct?

8 A. An indication of --

9 Q. That's an indication or a sign of his illness; is that
10 correct?

11 A. I can't hear you. Indication of --

12 Q. Is that an indication or sign -- one of the common signs
13 of the illness that he suffers from?

14 A. It could be, yes.

12:21:05PM 15 Q. And the fact that he is actually sitting there looking
16 poker faced, that doesn't mean that he is not actively
17 psychologically hallucinating, correct?

18 A. No. He could be worrying about the case. He could be
19 hallucinating. He could be worrying about what to say. Who
12:21:34PM 20 knows.

21 Q. Uh-huh. And even when he is answering questions in what
22 you think -- or what you believe is a goal-directed manner, he
23 still could be -- since he is suffering from schizophrenia --

24 A. Oh, yeah, you are always schizophrenic. The question
12:21:51PM 25 is -- I'm always diabetic; but when I take my medications

1 right and eat right, my diabetes is not active.

2 Q. And he wasn't on any medication, correct? He was not on
3 any medication?

4 A. Correct.

12:22:17PM 5 MR. RYTTING: I'll pass the witness.

6 THE COURT: All right. I think this would be a good
7 opportunity for us to take our lunch break. Let's break for
8 an hour. Be back here at 20 minutes after 1:00, please.
9 1:20.

12:22:27PM 10 (Lunch recess)

11 THE COURT: All right. Doctor, do you want to come
12 up and resume the witness stand, please?

13 MR. RYTTING: Your Honor, may I just notify the AG
14 that Gladys Aldridge is here; and she is in the courtroom at
01:28:09PM 15 the moment. We haven't invoked the Rule.

16 MS. HAYES: We will now. We invoke the Rule.

17 THE COURT: All right. Ms. Aldridge, the Rule has
18 been invoked, which means that potential witnesses are not
19 allowed to sit in the courtroom. So, you will have to remain
01:28:30PM 20 outside until you're called as a witness in this case and not
21 discuss your testimony with any other witnesses in the case
22 until after you have testified. All right. Thank you.

23 (Ms. Aldridge leaves the courtroom)

24 THE COURT: All right. You may proceed.

25 **CROSS-EXAMINATION**

1 **BY MS. HAYES:**

2 Q. Good afternoon, Dr. Quijano. I would like to ask you
3 first -- you started off talking about your qualifications.
4 By the time that you did the evaluation in this case in March
01:29:19PM 5 of 1990, how much experience did you have doing forensic
6 psychological evaluations?

7 A. By that time I would have been considered a veteran
8 because I started my forensic work in 1977. When I was chief
9 psychologist for eastern State Hospital in Oklahoma, we were
01:29:48PM 10 the forensic unit for the eastern third of Oklahoma.

11 Q. By the time you actually had a chance to evaluate
12 Mr. Aldridge, how many competency evaluations had you
13 performed? In a ballpark figure.

14 A. In the hospital I did maybe four a week, and I was there
01:30:13PM 15 for four years. Then after that, in private practice, maybe I
16 would do two a month.

17 Q. And that would be for how long?

18 A. Since '77 until '90. So, that's about 20 years.

19 Q. Okay. And how about the same for sanity evaluations, are
01:30:35PM 20 they usually done at the same time?

21 A. They are done at the same time, but the sanity is not as
22 frequent.

23 Q. And have you had cause to be able to lecture or to teach
24 about forensic psychological evaluations?

01:30:55PM 25 A. Yes.

1 Q. Okay. Would you explain what kind of context you have
2 done that?

3 A. We had -- there was the Texas Psychology Foundation --
4 Texas Psychology Foundation published a book called The
01:31:16PM 5 Forensic Journeyman Clinician, and I was asked to write a
6 chapter in the book. And after that I have internship
7 students come to the office and discussions in Texas
8 Psychological Association meetings.

9 Q. Have you had the role of explaining to a Court or a jury
01:31:44PM 10 the difference between competency and mental illness?

11 A. Yes.

12 Q. All right. Would you -- I know there was a lot discussed
13 at the start; but could you just, in sort of a nutshell
14 version, explain what we are really looking for? What's the
01:31:58PM 15 difference between the two?

16 A. A mental illness is, of course, a disorder a person has
17 that may be considered or -- considered by the neurological
18 system of the American Psychiatric Association as an illness.

19 Just because a person is mentally ill does not mean he is

01:32:26PM 20 necessarily incompetent to stand trial. There are two

21 separate questions. A person can be not mentally ill and

22 incompetent. It can be mentally ill and incompetent, but he

23 can also be mentally ill and competent. It is his ability --

24 the law defines competency as his ability to essentially

01:32:54PM 25 understand factual, rational understanding of the proceedings

1 against him and his ability to work with his lawyer,
2 regardless of whether he is mentally ill or not.

3 Q. Does the Diagnostic and Statistical Manual, the DSM of
4 mental disorders, does it inform the psychological community
01:33:22PM 5 about certain factors that you should consider when you are
6 dealing with defendants that are presenting mental illness
7 symptoms?

8 A. Yes.

9 Q. Okay. How so?

01:33:33PM 10 A. The DSM-IV warns about malingering, particularly for
11 patients who have -- who have reason to benefit from --
12 through secondary gains, benefit from being mentally ill. So,
13 in the DSM-IV is a warning that people who are criminally
14 involved, the clinician must be very cautious and look for
01:34:05PM 15 potential malingering which, as I said, could mean fabricating
16 symptoms or exaggerating symptoms.

17 Q. Okay. In your years of experience at T.D.C.J., or at
18 Texas Department of Corrections, in your role there, would
19 that assist you in being able to deal with a defendant
01:34:28PM 20 population that might be presenting mental illness issues?

21 A. My experience in the Texas prison system, with the
22 federal prison system, and my stint at the state hospital
23 where we had forensic case law helped me -- prepare me for
24 this type of work.

01:34:52PM 25 Q. Now, would you say in your years of experience, that you

1 dealt with many defendants who are psychotic?

2 A. Yes.

3 Q. Okay. Now, in this case -- I know in your report, which
4 is Petitioner's 8, also Respondent's 12, you refer at length
01:35:10PM 5 to Mr. Aldridge having delusions.

6 A. Yes.

7 Q. Okay. And hallucinations.

8 A. Yes.

9 Q. And that he even had a flat affect.

01:35:19PM 10 A. Yes.

11 Q. Okay. And then you had given a clinical impression of
12 being a paranoid schizophrenic.

13 A. Yes.

14 Q. All right. Despite listing all of those in the report,
01:35:30PM 15 you still said that he is competent to stand trial.

16 A. Yes.

17 Q. So, they're not -- are they mutually exclusive, or --
18 well, let me strike that.

19 There's been a lot of questioning about the
01:35:45PM 20 extent of whether Mr. Aldridge has a serious mental illness.

21 Is a serious mental illness enough to get him over the hump to
22 show that he is, in fact, incompetent?

23 A. No.

24 Q. Why not?

01:35:58PM 25 A. It is not the presence or absence of the mental illness.

1 It is his ability to understand what he is charged with, the
2 consequences of the proceedings, and his ability to work with
3 his lawyer. That is the criteria used, not the presence or
4 absence of mental illness. The presence or absence of mental
01:36:27PM 5 illness can explain his competency but does not cause it.

6 Q. When you are assessing his competency and you are looking
7 first -- would you explain what the definition is that you
8 were following in 1990?

9 A. Of incompetency?

01:36:42PM 10 Q. Yes, please.

11 A. Does the person have a factual understanding of the
12 proceeding against him, a rational understanding of the
13 proceeding against him, or the ability to assist counsel in
14 his own defense?

01:36:57PM 15 Q. Now, in determining the factual understanding aspect of
16 that definition, what in particular did you look for in this
17 case?

18 A. It is very simple. Does the person understand what he is
19 charged with?

01:37:12PM 20 Q. Okay. Did -- obviously, since you found him competent,
21 you found he did have a factual understanding.

22 A. Yes.

23 Q. Now, when we say "factual understanding," we're talking
24 factual understanding of the proceedings against him; isn't
01:37:24PM 25 that correct?

1 A. Correct. The first part refers to the charge and what
2 led to the charge.

3 Q. Okay. Now, what led to the charge, as they've argued,
4 has some delusion tied up with it. Does that mean now that we
01:37:46PM 5 are dealing with someone who doesn't have a factual
6 understanding?

7 A. No. A person can have a serious mental illness and still
8 know that he is charged of, in this case, murder. He can
9 still relate how it developed and the consequences, what he
01:38:06PM 10 did before, what he did after, what he did during. He can
11 clearly state that. Now, he can couch that in strange ways,
12 crazy ways. But if he is able to tell us what he is charged
13 with, what led to that and what he did afterwards, then he
14 would be competent to stand trial, and if he can work with his
01:38:37PM 15 lawyers.

16 Q. Now, looking, again, at the rational understanding of
17 proceedings aspect, was Mr. Aldridge able to explain the
18 operative facts of the crime to you?

19 A. Yes.

01:38:50PM 20 Q. Okay. What do you recall his explanations of the
21 operative facts?

22 A. Well, number one, he related how he bought the gun, that
23 he lied to the -- or did not tell the -- did not tell the
24 truth, in that he was a felon, and then that he went to the
01:39:15PM 25 store early and then that the -- this person was there and

1 somebody was trying to convince him not to shoot, but then
2 he -- so, he said -- he related how he shot the person, how he
3 convinced the person or threatened the person with the gun to
4 open the safe but always couched in a mental illness form.

01:39:45PM 5 Open the safe for me because I will not touch the safe because
6 I'm a shareholder of the company. But open the safe for me.

7 Then he realized that the person was still
8 alive. So, he shot him again. Coached him into doing this
9 again, saying: Go back there and shoot him one more time.

01:40:05PM 10 And then, of course, they escape. Well, when he left the
11 place, his family members wanted him to join in another crime;
12 and he said: No. I will not commit another crime.

13 Q. Okay. So, at least as far as the fact that he bought the
14 gun, he goes to the shop early, he opens the McDonald's, he
01:40:33PM 15 shoots the manager, he shoots him twice, he has him opening
16 the safe, he takes the money from the safe, he was getting on
17 the bus, he was meeting up with his family, all of these
18 details have been explained to you by Mr. Aldridge.

19 A. Correct.

01:40:47PM 20 Q. Regardless of the fact that there may be some aspects of
21 delusional beliefs mixed in; like, say, for example, there's a
22 guy on the roof.

23 A. Correct.

24 Q. All right. And when you dealt with Mr. Aldridge, is it
01:41:03PM 25 your impression that he understood that the charges against

1 him, the charges he faced, were serious?

2 A. Yes.

3 Q. Okay. How did you assess that? Just in interview or
4 how?

01:41:13PM 5 A. Interview as to what are the consequences if you are
6 found guilty, not guilty. He was able to explain all of that.

7 Q. Did he appear to appreciate the wrongfulness of his
8 conduct?

9 A. Yes, in two ways. He understood that it was wrong
01:41:39PM 10 because it was a crime; i.e., I will not commit another crime.
11 And then he has -- he also has previously mentioned that he
12 doesn't want to kill anybody. So, there is that intrinsic
13 value for life. There's also the extrinsic consequence of the
14 act.

01:42:04PM 15 Q. In your determination of this factor, did you include
16 information about his depart from the Houston area immediately
17 after the crime?

18 A. That is where -- the information about that shows two
19 things: Number one, that at the time of the conduct charged,
01:42:32PM 20 that he was not affected to a debilitating degree by the
21 mental illness because of that escape procedure and that the
22 manner with which the crime was committed was not
23 schizophrenic at all and it was organized. It was goal
24 directed. The escape was the same thing.

01:42:58PM 25 And that escape -- answering the second

1 question, the insanity question, does he know what he did was
2 wrong, yes, he did. He knew it was wrong; number one, because
3 he told his people that I will not commit another crime;
4 number two, he escaped.

01:43:22PM 5 Q. In your declaration that you gave in 2006, which has been
6 offered as the Petitioner's 28, you were asked at the very end
7 about -- and I know we objected about the McNaughton test.
8 There was just a comment that you made about: Well, if the
9 McNaughton was accepted, maybe he might be insane.

01:43:48PM 10 To date have you seen any evidence that has
11 caused you to change your original opinion on sanity at all?

12 A. No.

13 Q. So, even with him being delusional or hallucinating, even
14 with the letters, even with the conduct, is it your testimony
01:44:06PM 15 that he still appreciates the wrongfulness of his act?

16 A. Yes. Immediately after the act, it is a very important
17 point of study and intermediate after the act where the escape
18 procedure happened in a very organized fashion, although it's
19 still described in a crazy manner.

01:44:28PM 20 Q. If you are assessing sanity, then, you are obviously
21 focused on the conduct at the time of the crime and
22 immediately after.

23 A. Yes, because the law says: Does he understand that the
24 conduct was wrong at the time of the crime? So, the closer we
01:44:48PM 25 get to the crime, the closer evidence we have, the more

1 accurate we become.

2 Q. Is there any value at all in offering an opinion that
3 perhaps Mr. Aldridge is insane now, if you are trying to
4 determine the correctness of the opinion about sanity back in
01:45:04PM 5 1990?

6 A. No.

7 Q. The same thing for competency, is there really a point in
8 deciding that right now in 2009 he might be incompetent when
9 you are trying to decide the correctness of the determination
01:45:18PM 10 back in 1990?

11 A. Both insanity and competency are time limited. They are
12 describing the person at that moment in time, not five years
13 later or 20 years later.

14 Q. If you wanted to -- assuming you had not been called in
01:45:38PM 15 to do an evaluation and someone is thinking: Okay. We have
16 evidence that he might have a mental problem, and we want to
17 do a retrospective assessment, then, as a professional, would
18 your opinion be limited to the conduct that is occurring up
19 to, you know, 1990s when the crime occurs? What kind of time
01:45:57PM 20 period for records and people and interviews -- what are we
21 talking about as far as the operative time period to consider?

22 A. It would be events, behaviors, talk, language, at or
23 around the time of the crime, very circumscribed.

24 Q. What weight, if any, would the fact that Mr. Aldridge had
01:46:25PM 25 a competency hearing on whether he was competent when he

1 waived state habeas counsel in 1990? Would that weigh at all
2 in the determination of his competency to actually stand trial
3 in 1990?

4 A. No.

01:46:40PM 5 Q. Oh, I said the wrong year. The state hearing is '95, and
6 the trial was 1990. So, the state habeas hearing was
7 five years later. So, I guess the answer would still be the
8 same?

9 A. The answer is no.

01:46:52PM 10 Q. Is there any weight that should be even assigned to the
11 results that professionals reached in 1995 in deciding a
12 competency to waive counsel issue -- is there any weight that
13 should be assigned to that when you're deciding if the
14 correctness of your competency evaluation in 1990 -- deciding
01:47:13PM 15 that -- yes -- whether it is correct or not? Maybe I should
16 reword that.

17 What weight should be assigned to a 1995
18 hearing on competency to waive counsel when we are assessing
19 the correctness or trying to decide whether your competency
01:47:31PM 20 evaluation seems --

21 A. There should be no retroactive application of a
22 competency opinion done five years later, then making it
23 applicable to five years before. It cannot be done.

24 Q. So, for example, if -- not only with the hearing in
01:47:52PM 25 1995 -- I know you've probably had a chance to review a lot of

1 the exhibits that are being offered. There are numerous
2 letters and pleadings and things that have been filed from '90
3 through 2006.

4 Would, say, after 1990 -- would really anything
01:48:12PM 5 from 1991 and later matter much if we're looking at your
6 initial assessment?

7 A. No.

8 Q. If you are making an assessment on competency, as you did
9 in your report, you have set out the questions and -- or the
01:48:29PM 10 responses that you were able to glean from Mr. Aldridge on
11 certain prongs when you are looking at each of the aspects.
12 Is that something that's required when you are making a
13 competency report?

14 A. Yes. In Texas there is a -- literally -- there's
01:48:46PM 15 literally an outline that you have to follow, published by
16 the -- I think it is called court administration -- court
17 administration office. There is a form that you have to
18 follow.

19 Q. And that's been in effect for how long? Do you know?

01:49:05PM 20 A. The new form, I don't know. But -- maybe 10 years, the
21 new form. But before that it was by statutes; and it was left
22 to the different mental health people to write it the way they
23 wanted to, as long as you address the three questions.

24 Q. If you were -- I notice from your report, which is the
01:49:32PM 25 Petitioner's Exhibit 8 and Respondent's Exhibit 12, that it

1 says that part of your clinical evaluation involved conducting
2 the -- or administering the MMPI, the Minnesota Multiphasic
3 Inventory test.

4 A. Yes.

01:49:50PM 5 Q. Why in particular did you choose that test?

6 A. Well, the MMPI is the most research instrument of
7 personality as well as psychological symptoms. It's also well
8 researched among the criminal population.

9 Q. Okay. What would be the importance of -- or is there an
01:50:25PM 10 importance to giving a test that is actually been
11 standardized, maybe, with a criminal population?

12 A. It is very important because the validity of the test
13 depends on which population it was standardized. And so, you
14 cannot just pick a test, a Canadian test, and then apply it to
01:50:52PM 15 the United States and say it is valid. You can say it is
16 suggestive of something; but the validity has to be defined by
17 the characteristic of the test, which means it is used among
18 the criminal population.

19 Q. When you did your evaluation of Mr. Aldridge -- I know on
01:51:21PM 20 the report that we were just talking about, you listed off
21 different written materials that you were provided from the
22 Texas Youth Commission, Texas Department of Corrections
23 records, Harris County District Court judgment sentences,
24 personal writings. These are listed on page 1 of the report.

01:51:38PM 25 And then on page 3 you go into some detail about the specific

1 letters and specific dates.

2 Since one of the -- at least one of the letters
3 is that jury selection note from April of 1990. So, since
4 that is included in your report, would you agree that you are
01:51:56PM 5 at least receiving materials from counsel, that he is trying
6 to -- that at least apprise you -- or sending you materials as
7 things progress?

8 Did you -- when you were deposed in November of
9 this past year, do you recall that there was questioning and
01:52:19PM 10 you were asked at length about the date of the written report
11 that you issued in this case?

12 A. Yes. It was the first, I guess, subject of the
13 questionings about the dates of the report.

14 Q. Do you recall explaining about whether you had a practice
01:52:41PM 15 or whether there was a reason for waiting to actually issue
16 the written report?

17 A. I speculated because it's not documented in the report.
18 But I speculated that I communicated already to the lawyers.
19 I continued to receive information from them because of the
01:53:12PM 20 letters I got; but I could not pin down how often, when I
21 talked to them. It is not a -- it's not a common happening
22 that that report is not done. In capital cases it is more
23 frequent than non-capital cases where there's just constant
24 postponement of trials and things like that, and you wait
01:53:46PM 25 until you are told to wrap it up.

01:54:10PM 1 Q. If Mr. Aldridge was then -- at the time that you actually
2 evaluated him in March of 1990, if he was still functioning at
3 the same level by the time he goes into trial, then would you
4 be comfortable saying he is still at the same -- that he has
5 not changed as far as competency or sanity?

6 A. Yes. Because one possibility is that he was not
7 medicated. So, he was at the peak of his illness. It is
8 different if he was medicated when I saw him, removed from
9 medication during the trial. Then he might become -- he might
01:54:35PM 10 be competent, say, and become incompetent. But all conditions
11 were the same at the time I saw him and at the time he was
12 tried.

13 Q. And when you are talking right now about medicine,
14 that -- we don't have any evidence here that Mr. Aldridge had
01:54:50PM 15 ever been put on medicine, correct?

16 A. No. There was no medicine, most likely because he was
17 functioning quote normally, with a regular job, his own
18 apartment, and interacting with his family.

19 Q. Now, under what situation, then, since he was in Harris
01:55:12PM 20 County custody with the Mental Health Mental Retardation -- I
21 guess MHMRA before trial, under what situation would they be
22 able to medicate Mr. Aldridge?

23 A. In Texas there are only two conditions where you can
24 force medicate, and that is danger to himself or danger to
01:55:38PM 25 others. If he is not going to be dangerous to himself or

1 others, they would not force medicate him. There is a federal
2 decision called the Vitek decision, V-I-T-E-K, wherein
3 correctional institutions, you don't have to get a court order
4 to force medicate. You can have a local administrative
01:56:00PM 5 decision-making body. But that is not used unless you are a
6 danger to yourself or others or you're clearly deteriorating
7 that you are no longer functioning. If you are functioning
8 with crazy ideas, they will leave you alone.

9 Q. So, there are people at the jail that are able to
01:56:18PM 10 evaluate -- to decide if he is deteriorating to make the
11 recommendation then to put him on medication, correct?

12 A. Yes. There is a procedure -- all jails -- federal,
13 county, state -- there's a procedure by which there is a
14 screening procedure by the healthcare people. Additionally,
01:56:41PM 15 officers are trained. I think they are required 12 hours of
16 mental health training a year to recognize signs and symptoms
17 of mental illness and when they should call in for force
18 medication.

19 Q. Now, does the fact that he has killed somebody -- I guess
01:56:58PM 20 for lack of a better term, killed someone in the free world --
21 does that mean that he is automatically a danger to others
22 once he is locked up in jail and would be medicated?

23 A. No. Most people who cannot behave well in the free
24 world, behave well in structured settings such as jails and
01:57:18PM 25 prisons. So, the nature of the crime does not dictate whether

1 the person is medicated or not.

2 Q. Okay. So, the fact of whether he would or would not have
3 been medicated, they weren't waiting on you to go back in and
4 reevaluate and make a medicine determination, correct?

01:57:34PM 5 A. No, they were not waiting on me. Besides my opinion
6 would not carry weight because I don't have what is called
7 clinical privilege in the jail. There are people that were
8 credentialed to make those decisions. I am not privileged to
9 render that kind of opinion to the healthcare people.

01:57:58PM 10 Q. Now, given the evaluation of Mr. Aldridge and all the
11 very detailed stories and the delusions and all the things
12 that are included in your report, would you expect someone who
13 has just told you this rendition of all the beliefs to
14 actually be able to maintain a job, to make it to work, to go
01:58:27PM 15 work every day, to have a good work record? Is somebody that
16 you read, your report on, would you expect them to be able to
17 function out in the free world?

18 A. If you read the symptoms alone -- if you listen to the
19 symptoms alone, you would say this person cannot function.

01:58:49PM 20 This person is incompetent. So, you have to test it. This
21 person is mentally ill to X degree. Is he functioning or not?
22 Then you check. He is going to work. He's paying his bills.
23 He's going to work regularly. Then he is mentally ill but
24 functioning.

01:59:11PM 25 But the same thing with competency. Listening

1 the first hour of his conversation with me, of course, you
2 raise the hypothesis this person is incompetent. Now let's
3 put it to a test. The test was done, and he did very well.
4 And so, you go with the data. You do not automatically decide
01:59:32PM 5 that because the person is mentally ill, he must be
6 incompetent.

7 Q. If you have evidence -- if you were determining
8 competency and you have evidence that suggests that he is
9 keeping himself well fed and maintaining an apartment and all
01:59:58PM 10 those -- he is driving, he has a car, he has a bank account,
11 he is being evaluated as an outstanding worker, if that's --

12 MR. RYTTING: I'll have to make an objection. I
13 would like to object. I see no foundation in the record and
14 the evidence so far that he was doing any of these activities
02:00:16PM 15 on any sort of regular basis including the driving behavior
16 and regular attendance at work.

17 MS. HAYES: I will be glad to give all the
18 records --

19 MR. RYTTING: None.

02:00:27PM 20 THE COURT: All right. Go ahead.

21 MS. HAYES: Okay. He's able to maintain a job.
22 That's in the trial record, Volume 20. That's Virginia
23 Aldridge, page 226. He makes it to work. That's Virginia
24 Aldridge, again, page 226. He goes to work every day. That's
02:00:40PM 25 Cheryl Aldridge, page 242. That's Volume 20 of the reporter's

1 record. He is prompt and never tardy. That's Al Collins. He
2 testified at guilt/innocence. He is the manager at the
3 McDonald's. He's also the one that said Aldridge would call
4 in if he can't make it to work. He's also the one that moved
02:01:00PM 5 Aldridge from different McDonald's because he was pleased with
6 the work that he was doing. He referred to him at page 124 in
7 Volume 16 in the reporter's record as an outstanding worker.
8 He was also rated as an outstanding worker by Eugenia Rangel
9 [phonetics] who testifies at Volume 16, reporter's record,
02:01:16PM 10 page 37 and 48.

11 Again, Al Collins describing him as very
12 responsible, Volume 16, page 124. He always accomplished the
13 job above and beyond what is expected, again, Al Collins, page
14 124. He was actually offered or asked whether he would like a
02:01:34PM 15 management position at McDonald's, and he said that he would
16 think it over. That's Al Collins' testimony, the trial
17 record, page 16 -- or Volume 16 of the reporter's record, 187.

18 The fact that he is working up to save money
19 and has a bank account so that -- or working up to save money
02:01:51PM 20 to be able to go wherever he wanted to go, that's Virginia
21 Aldridge, Volume 20 of the reporter's record, Page 227. That
22 he's saving money, again, Virginia Aldridge, page 227.

23 THE REPORTER: I'm sorry. Can you slow down,
24 please?

25 MS. HAYES: Sure. I can even give you the list.

1 He is saving money. That's Virginia Aldridge,
2 Volume 20, page 227. He is saving money to leave town, more
3 goal-directed behavior. Again, Virginia Aldridge, Volume 20,
4 page 227. That he is saving money specifically when he is
02:02:23PM 5 working at McDonald's, that is Brenda Garrett, Volume 20, page
6 255.

7 He has a car note to pay is one of the reasons
8 why he's working, Virginia Aldridge, Volume 20, page 227. He
9 had his own car, a little gray car, Brenda Garrett, Volume 20,
02:02:46PM 10 page 255. He is driving in Houston even on the morning of the
11 crime. Immediately after the crime, he is driving when they
12 go to San Antonio. That is James Aldridge's testimony -- or
13 James -- yeah, James -- oh, James Thomas -- James Aldridge
14 Thomas, Volume 16, reporter's record, page 241.

02:03:10PM 15 He represents himself and successfully
16 litigates a lawsuit in small-claims court, winning \$350 in
17 damages, following an accident on June 4th, 1989. The
18 incident is 1989. I'm not -- the lawsuit is between then and
19 the murder. That was the testimony of Ken Garwick [phonetics]
02:03:33PM 20 at punishment, Volume 20. I don't have the page number. But
21 it's one of the state witnesses. I can give you a page
22 number.

23 He had his own apartment. He is able to eat
24 and keep himself well fed and well-nourished, Virginia
02:03:48PM 25 Aldridge, Volume 20, page 226. Able to bathe himself, keep

1 himself clean, again, Virginia Aldridge, 226, the same volume,
2 20. That he dresses himself like a normal person, Volume 20,
3 again, Virginia Aldridge, page 226.

4 THE COURT: All right. The objection is overruled.

5 MS. HAYES: Okay.

6 BY MS. HAYES:

7 Q. So, if you have evidence of all these types -- and there
8 are many more examples of how he is functioning out in the
9 everyday society. When you are evaluating him on competency,
02:04:27PM 10 how do these kinds -- this kind of information play in on your
11 competency determination back in 1990?

12 A. It is the kind of behavior that is called adapted
13 behavior skills; and clearly his adapted behaviors is more
14 than adequate, more than minimum. So, if you have a person
02:04:46PM 15 like that who is also very, very crazy, you know he's both.
16 He is mentally ill and able to function. So, you can assume
17 it.

18 So, after I listen to his story, I say: Well,
19 let's put it to the test, whether he can put it aside and then
02:05:03PM 20 focus on the competency questions, which he did. And if you
21 read the whole report, the flow becomes more intelligible as
22 you go along. The initial one is his presentation of what we
23 call his expressive speech. He is not asked questions. You
24 just go: Tell me about this. Then he delivers his
02:05:30PM 25 presentation.

1 Expressive. An expressive speech in
2 schizophrenia is more likely to be peppered with crazy ideas.
3 The second part of speech is called receptive speech where you
4 say: Okay. Now, answer me very, very specific questions. At
02:05:51PM 5 that moment most schizophrenics can answer expressive
6 questions -- receptive questions. Tell me, do you understand
7 your right to remain silent? If they say no, do you -- if a
8 policeman comes to talk to you about your crime, will you talk
9 to him, yes or no? No, I will not talk to him. Would you
02:06:16PM 10 refer him to your lawyer? Yes, I would.

11 Then you are able to draw a conclusion whether
12 he understands, for example, his Fifth Amendment rights.
13 Simply asking him, do you understand your Fifth Amendment
14 rights, may not generate the answer. And even if it did, you
02:06:33PM 15 make sure he understands because he is mentally ill.

16 MS. HAYES: If I could have one moment.

17 THE COURT: Yes.

18 (Pause)

19 BY MS. HAYES:

02:07:19PM 20 Q. The question is: When you talk to him at the very start
21 and you are doing the open-ended interview and he is coming up
22 with the wild stories, that's in your report, correct?

23 A. Yes.

24 Q. When you are asking him the very specific questions,
02:07:34PM 25 we're talking questions like what's the role of the judge?

1 A. Correct.

2 Q. What's the role of the attorney?

3 A. Correct.

02:07:45PM

4 Q. Do I have an avenue if I am not happy with my attorney's
5 performance, those are the types of questions that -- he could
6 answer those correctly.

02:08:01PM

7 A. Correct. What are you charged with? What happens if you
8 are found guilty? What happens if you are found not guilty?
9 If I am guilty and you think the trial is unfair, what would
10 you do? If you are found guilty and you thought your lawyer
11 was incompetent, what would you do? Do you know what
12 incompetent means? Do you know what appeal means?

02:08:19PM

13 And you break it down to a language that he
14 uses and understands. If you ask those questions to a normal
15 person, you don't have to break it down; but because he is
16 mentally ill, you ask more questions so you know he
17 understands what he is telling you.

02:08:39PM

18 Q. If for some reason you weren't able to break those
19 questions down, then you would be left with -- I guess
20 breaking those questions down allows you to work with someone
21 who is delusional or psychotic so that you can get directed
22 responses and get to the goal of what you are trying to ask.
23 Would that be correct?

02:08:55PM

24 A. What happens is when you break it down, if the
25 schizophrenia is very, very strong, that is uncontrollable, it

1 will, what we call, interject themselves into the
2 conversation.

3 Q. Did you see any of that here?

4 A. No. That's the reason why I found him competent in spite
02:09:10PM 5 of being schizophrenic, because when it was time -- when the
6 time came to focus on the nitty-gritty, he was able to
7 suspend; and there was no intrusion, what we call thought
8 interjection or thought intrusion, into the discussion. And
9 that must have been what happened with the lawyers; that in a
02:09:31PM 10 free-flowing conversation, there is this wild talk but then
11 when it comes to answering "yes" or "no," where do we go, he
12 is able to do that.

13 Q. Okay. And I may have asked this, but I want to make
14 doubly sure. When you gave your affidavit originally in
02:10:02PM 15 2006 -- and it's been attached to the writ -- it has been
16 argued that you are now changing your opinions about
17 competency and sanity. Is that what the Court is supposed to
18 take from that 2006 affidavit? Are you now saying in 2006
19 that you think you -- that it should have been a different
02:10:25PM 20 determination?

21 A. No. I was -- that affidavit -- next time a lawyer asks
22 me to sign an affidavit, I will be more careful. I was told:
23 Can you present a set of data to another psychologist, and can
24 another psychologist render a different opinion?

02:10:44PM 25 I said yes. I said that if you follow strictly

1 what the law says, that he or she will come up with the same
2 conclusion I did. But, of course, it is possible somebody
3 else can look at that and say: Well, he is incompetent.

02:11:04PM 4 Q. Have you to date had any other -- other than this case,
5 where you have given an opinion that someone was competent and
6 had that -- had another expert challenge it?

7 A. No. No. The jury doesn't always buy incompetence.

8 MS. HAYES: Nothing further, Your Honor.

9 THE COURT: All right. Thank you.

02:11:28PM 10 Any redirect, sir?

11 MR. RYTTING: Yes, Your Honor.

12 **REDIRECT EXAMINATION**

13 **BY MR. RYTTING:**

14 Q. Did I understand correctly that your opinion has not been
02:11:36PM 15 challenged by another expert?

16 A. Not in --

17 Q. Regarding competency?

18 A. Not in court. It is possible to have a hearing without
19 me and they contradicted me, but not in open court like this.

02:12:13PM 20 Q. Let's see. You mentioned about breaking down the
21 questions for Mr. Aldridge. Do you believe this is -- what is
22 the basis in the literature or in the practice for
23 recommending this in the case of someone who suffers from
24 schizophrenia?

02:12:34PM 25 A. It's a very simple rule in basic psychology, and all

1 psychologists know it.

2 Q. Well, I just want to know. Is it in the literature? Is
3 there anyplace that you could cite us to, any documents, any
4 journal, any treatise in which this is recommended that the
02:12:49PM 5 way to determine competency when you are faced with a patient
6 suffering from schizophrenia?

7 A. May I say this is a very basic rule in psychology, which
8 everybody is trained to do. It is called operationalize the
9 answers. Operationalization.

02:13:05PM 10 Q. So, the answer is: No, you do not know of a text or
11 treatise in which this is the recommended procedure to
12 determine incompetency on a schizophrenic?

13 A. I do not know where you got that. My answer was yes.
14 It's called operationalization.

02:13:22PM 15 Q. Okay. So, where is this theory set forth in a
16 psychological treatise?

17 A. It is not a theory. It is an interviewing technique. If
18 you read any basic interview technique textbook, it will tell
19 you to operationalize the concepts.

02:13:48PM 20 Q. And then does it say specifically that you are supposed
21 to do this for people that are suffering from schizophrenia or
22 psychosis?

23 A. No. It should be done with anybody but particularly with
24 mental ill people with legal consequences because you do not
02:14:03PM 25 want them to say: Yes, I understand my Fifth Amendment right

1 and be satisfied. You have to make sure they understand what
2 the Fifth Amendment rights mean.

3 Many times I would say: Do you understand your
4 Fifth Amendment rights?

02:14:17PM 5 Yes.

6 What is your Fifth Amendment right?

7 It's free speech.

8 Q. So, when someone is mentally ill, oftentimes when you are
9 asking -- strike that.

02:14:30PM 10 When someone is suffering from mental illness,
11 when you ask these truncated controlled questions as opposed
12 to an open-ended question, you get a different question?

13 A. Open-ended questions with schizophrenics?

14 Q. Yes.

02:14:46PM 15 A. Yes. You will get -- a number of symptoms will increase
16 with open-ended and will decrease with close-ended.

17 Q. Let me get this correct. You think open-ended
18 questions -- are they the ones that are stimulating symptoms?

19 A. No. They are unstructured; and so, the frequency of
02:15:08PM 20 errors and confabulations increase.

21 Q. So, actually, when you ask an open-ended question, what
22 happens is the degree of the delusions and the extent to which
23 they are hallucinating may become more apparent?

24 A. Correct. Then you have to test the theory. Can he
02:15:27PM 25 discipline himself enough with a structured question? The

1 answer is -- then you try it. If you can't, then you say yes.

2 Q. If you asked him: Well, why are -- he may say: Yes, my
3 Fifth Amendment right is the right to remain silent.

4 And if you ask him: Well, why would you need a
02:15:44PM 5 right to remain silent, you would give some strange and -- you
6 could get some strange and fantastic answer; is that correct?

7 A. If you ask why, but never ask why. Why is a very poor
8 interview question.

9 Q. Well, when you ask someone who is not mentally ill, why
02:16:05PM 10 would you want the right to remain silent, that's a very good
11 question, is it not?

12 A. But you don't ask why. You never ask questions why in a
13 good interview.

14 Q. Okay. And what is the basis for this opinion? Where did
02:16:22PM 15 you get this from?

16 A. Good training, good schooling. I was told never to ask
17 why. You will lead to nowhere. What you want to ask is: Do
18 you understand your Fifth Amendment rights, yes or no? What
19 is your Fifth Amendment rights?

02:16:42PM 20 The right to remain silent.

21 What is the purpose of -- what does it do for
22 you that you remain silent?

23 Then he will say: Oh, because I don't want
24 them to use it against me.

02:16:55PM 25 Very good. But you do not say why because then

1 you would have a philosophical discussion as to why you have
2 the right. You don't ask why in interview questions of this
3 type.

02:17:12PM 4 Q. But, again, someone who suffers from schizophrenia, if
5 you ask that, you won't get a philosophical discussion.

6 You'll get a delusional expression, delusional and
7 hallucinatory belief. Is that what is going to happen?

8 A. No. You are going to get philosophical answers from
9 schizophrenics.

02:17:41PM 10 Q. You said that you relied on functional -- what you were
11 calling functional behavior, Mr. Aldridge's ability to
12 function. But you didn't have any information from
13 shareholders or any of the other people that she talked about
14 before you made your report, did you?

02:17:59PM 15 A. That is the beauty of my evaluation. Because my
16 conclusion --

17 Q. I asked you -- no, no. You did not have that information
18 in front of you, did you?

19 A. I do not recall if I did; but even if I did not, it is a
02:18:15PM 20 beautiful evaluation because it turns out to be corroborated
21 independently of other people.

22 Q. What's corroborated?

23 A. That he is able to function even with his schizophrenia.

24 Q. And is this part of the test for competency, functioning?

02:18:36PM 25 A. Is he able to function in the court system with the

1 schizophrenia. We need to check. You ask those questions.

2 He was able to function. I said he is competent.

3 Q. Is that your understanding of what the standard is?

4 A. Yes.

02:18:49PM 5 Q. Does that standard incorporate the idea of functioning?

6 A. Correct.

7 Q. Sitting quietly in the courtroom like Mr. Aldridge right
8 now?

9 A. No. That's not --

02:18:57PM 10 Q. Is that an example of functioning?

11 A. No. To me that was functioning; rational, factual
12 understanding, and -- or -- it is not "and," it's "or" -- or
13 an ability to assist counsel.

14 Q. And where has this ever been described as a standard that
02:19:18PM 15 can be inferred from functioning?

16 A. That's what you're inferring.

17 Q. Well, what is your idea of functioning? When you talk
18 about functioning -- let's clarify that. What is functioning?

19 A. To see if he is able to function in court. Do you
02:19:33PM 20 understand that you are charged with capital murder, yes or
21 no? Do you -- what happens if you are found guilty? What
22 happens if you are found not guilty? Do you understand that
23 the district attorney, the DA, is against you? Do you
24 understand your lawyer is for you?

02:19:57PM 25 Most of them will say: He is supposed to be

1 for me.

2 Q. And that is sufficient for you. That's what you
3 believe --

4 A. No, that's not for me. That's what the law specifies.

02:20:06PM 5 Q. This is what you need for a competency examination. So,
6 if Mr. Aldridge -- if you asked Mr. Aldridge: Is the DA
7 against you?

8 A. Yes.

9 Q. And he says, yes, that's a sign that he is competent?

02:20:21PM 10 A. Part.

11 Q. And if you ask him why is the DA against you and he gives
12 you some fantastic hallucinating response, is that important
13 to try --

14 A. That's why you don't ask the question why. You ask: The
15 DA is against you?

16 Yes.

17 Tell me how the DA is against you.

18 Oh, he will send me to prison. He will give me
19 the death penalty.

02:20:43PM 20 Thank you. Next question.

21 Q. You talk about corroboration. Point to one thing in your
22 report that was corroborated by anyone.

23 A. The one thing that's corroborated --

24 Q. I'll show you your report. Some finding that was
25 corroborated about his functionality.

1 THE REPORTER: I'm sorry. I didn't hear you.

2 BY MR. RYTTING:

3 Q. Some finding in his report related to what you've been
4 calling his functionality that was corroborated. This is,
02:21:57PM 5 again, our Exhibit 8.

6 A. The biggest finding that's been corroborated is his
7 ability to set aside his mental illness and function; work,
8 home, bank, social relationship, as well during the interview
9 and how he is expected to behave in a court of law. That's
02:22:19PM 10 the corroboration.

11 Q. You talk about setting aside his mental illness. What do
12 you mean by that?

13 A. When a person is mentally ill, they have the ability to
14 suspend that and then engage the person in a normal
02:22:34PM 15 conversation. Some people can do that; some cannot. That is
16 why you have to test it.

17 Q. You believe that Mr. Aldridge can suspend his mental
18 illness?

19 A. Yes, while he is actively involved in conversation.

02:22:49PM 20 Q. Where is this --

21 A. Where in the literature?

22 Q. Yeah. Where in the literature does this idea of the
23 suspension of schizophrenia occur?

24 A. It is called waxing and waning. It is called remission.

02:23:05PM 25 It's called earlier remission, good remission. It's called

1 functionality, mentally ill but functioning.

2 Q. What authority -- what source is this theory that you are
3 expounding on? Explain -- name me any paper that you have
4 read, a department that has found this view about
02:23:25PM 5 schizophrenia, anything.

6 A. I cannot give you a specific paper, but I can lead you to
7 what literature you should be reading on.

8 Q. Okay. Go ahead and lead me to that.

9 A. It is called schizophrenia.

02:23:40PM 10 Q. So, in other words, you can't name -- not only can't you
11 name a specific one, you can't even give me anything close to
12 a general area?

13 A. The general area is schizophrenia. There's a whole area
14 in psychology called schizophrenia. Read the schizophrenia,
02:23:56PM 15 the way they think, pathology, psychopathology, waxing and
16 waning.

17 Q. To finish up, you earlier testified, I believe, when
18 asked about the specific passages in this report, that
19 Mr. Aldridge truly believed them, correct?

02:25:49PM 20 A. Yes.

21 Q. And you said it is likely that he maintained those
22 beliefs throughout the proceedings against him.

23 A. Yes.

24 Q. Those fixed unmovable beliefs that colored his perception
02:26:04PM 25 of the trial and of his legal situation; is that correct?

1 A. It is possible that that happened, yes.

2 Q. But, in fact, you testified that that is what is
3 happening in this case, that he has a fixed delusional system,
4 correct?

02:26:29PM 5 A. Yeah. But I think you over misinterpreted what fixed
6 means. Schizophrenia waxes and wanes, active, inactive,
7 active, inactive --

8 Q. Is that what you said or did not say earlier?

9 A. I did not -- if you are telling me that his schizophrenia
02:26:48PM 10 is a hundred percent of the time in his mind, the answer is
11 no.

12 Q. When it comes to waxing and waning and remission and
13 functionality, these terms that you've been using, are they
14 all the same, the same concept, with different names?

02:28:45PM 15 A. It's actually the same; that when the illness is
16 inactive, the person can function better.

17 (Pause)

18 RYTTING: Pardon me, Your Honor. I'm about to wrap
19 up.

02:29:39PM 20 THE COURT: All right.

21 (Pause)

22 MR. RYTTING: Pass the witness.

23 THE COURT: Anything else?

24 MS. HAYES: No, Your Honor.

02:30:51PM 25 THE COURT: I have a couple.

1 Doctor, when you talk about remission and
2 waxing and waning of the schizophrenia, are you saying that
3 the disease actually goes away or that the symptoms go away?

02:31:12PM 4 THE WITNESS: That's a better way to do it. The
5 disease is there, but the symptoms go away.

6 THE COURT: All right. So, the disease is always
7 present.

8 THE WITNESS: Always there, like the diabetes, like
9 I said, yeah.

02:31:21PM 10 THE COURT: There are times when the symptoms wax
11 and wane.

12 THE WITNESS: And sometimes a more engaging activity
13 can dislodge the symptoms.

14 THE COURT: All right. Thank you.

02:31:34PM 15 I think you said -- I'm referring now to your
16 affidavit, which was signed in 2006, which is Petitioner's
17 Exhibit 28. Do you have a copy of that in front of you?

18 THE WITNESS: No.

19 THE COURT: Can we provide him a copy of that,
02:31:52PM 20 please?

21 MS. HAYES: I have a copy, Your Honor.

22 THE COURT: Extra copy? Thank you.

23 I think you said earlier that next time someone
24 provides you with an affidavit, that you would read it more
02:32:13PM 25 carefully. Did you prepare any part of this affidavit

1 yourself?

2 THE WITNESS: No.

3 THE COURT: Did you change in any way the affidavit
4 that was submitted to you before you signed it?

02:32:25PM 5 THE WITNESS: The part that says "struck with
6 permission."

7 THE COURT: All right. On page 1.

8 THE WITNESS: Uh-huh.

9 THE COURT: All right. Let me refer you to page 3
02:32:32PM 10 of your affidavit, the last paragraph where it says, "Federal
11 habeas counsel has provided me with the trial testimony of
12 co-counsel, Randolph Bates," and then a description of what
13 Mr. Bates testimony was at trial concerning Mr. Aldridge.

14 Going on to page 4, at the top of the page, you
02:32:58PM 15 say, "I was not informed" -- or the affidavit says, "I was not
16 informed of trial counsel's specific problems. It is my
17 forensic psychological opinion that trial counsel's direct
18 testimony that his client was paranoid, delusional, and
19 irrational during attorney/client communications is clear
02:33:19PM 20 evidence Mr. Aldridge was not presently able to consult with
21 counsel with a rational degree of understanding."

22 Do you see where you say that in your
23 affidavit?

24 THE WITNESS: Yes. Yes.

02:33:32PM 25 THE COURT: Is that correct or incorrect?

1 THE WITNESS: That is correct. If -- I was never
2 told that until this affidavit. But if that is true, that
3 that was going on, he was incompetent.

4 THE COURT: All right. So, if Mr. Bates' testimony
02:33:49PM 5 during the trial was true with respect to Mr. Aldridge's
6 inability to interact constructively with his counsel, then
7 your opinion would be that he was incompetent to stand trial;
8 is that right?

9 THE WITNESS: Yes.

02:34:05PM 10 THE COURT: All right. So, that is a change in your
11 opinion; but it is based on information that you did not know
12 at the time you prepared your original report.

13 THE WITNESS: New data, yes.

14 THE COURT: All right. But what you're saying --
02:34:15PM 15 and I want to get this very clear in my mind. What you are
16 saying is that based on new and additional information that
17 you did not have at the time you did your original report in
18 1990 --

19 THE WITNESS: Yes.

02:34:27PM 20 THE COURT: -- it is now your opinion that he was
21 not competent to stand trial in 1990.

22 THE WITNESS: And given what Mr. Bates testified to.

23 THE COURT: All right.

24 All right. I think that's it. Does anybody
02:34:50PM 25 have any follow-up after that that they want to ask the

1 witness?

2 MR. RYTTING: No, Your Honor.

3 MS. HAYES: One rather quick question.

4 THE COURT: All right.

5 **RECROSS-EXAMINATION**

6 **BY MS. HAYES:**

7 Q. Would that still be your opinion if -- knowing that the
8 testimony by Mr. Bates was offered at punishment in mitigation
9 instead of at -- instead of at an earlier part in the trial
02:35:13PM 10 proceedings?

11 A. The testimony was given on punishment, not on -- it is a
12 possibility that he was competent during the guilt/innocence;
13 and when he was found guilty, he then compensated. I'm just
14 guessing. How you could explain why he would decompensate
02:35:45PM 15 during the guilt/innocence, the lawyer saying he was competent
16 and then became incompetent during that punishment. I'm
17 inferring that that could be how it happened.

18 Q. Would that still be your opinion, then, if Bates also
19 testified that it was not a consistent situation or not a
02:36:14PM 20 consistent type of --

21 A. Okay.

22 MR. RYTTING: I will just object. It's
23 mischaracterizing the record.

24 THE COURT: Do we have Bates' testimony?

02:36:26PM 25 MR. RYTTING: We do, Your Honor.

1 MS. HAYES: We do, Your Honor.

2 THE COURT: The question I have, counsel, I guess,

3 is: Even though Bates' testimony was offered during the

4 punishment phase of the trial, was his testimony about his

02:36:41PM 5 interactions with Mr. Aldridge limited only to the punishment

6 phase of the trial; or did it deal with the whole period of

7 interaction, including the guilt and innocence phase? That's

8 what I am not clear about.

9 MS. HAYES: I know -- we're talking about Volume 20

02:37:02PM 10 of the reporter's record. His testimony at punishment starts

11 at 256, but he doesn't end testimony -- give a date on when

12 any of the conversations occurred or if it just popped up then

13 or if it was something earlier, but what he does say is that,

14 by Page 256 -- I'm sorry.

02:37:23PM 15 What he does say is that, by page 257, they're

16 talking about -- it was on cross-examination that it came out

17 of punishment on Page 258, Your Honor. It starts around line

18 10 -- or line 9: "Without going into anything that you two

19 may have said, were you able to speak with each other

02:37:45PM 20 intelligently in the English language?"

21 Bates' answer is: "Sometimes."

22 And then it goes on at line 22: "Has he been

23 able to answer the questions that you asked him?"

24 Line 24: "Sometimes."

02:37:56PM 25 When he goes to redirect on Page 259, "Again,

1 he does mention about spirits and conspiracy, people after
2 him," again, it is "Sometimes."

3 When it gets to page 260: "Was he able to
4 speak with you about what happened on January 3rd," that's
02:38:15PM 5 lines 3 through 5, he says: "Yes."

6 "And you are trying to save his life right now,
7 right?"

8 The answer: "Yes."

9 "Or at least get the jury to answer one of the
02:38:27PM 10 two special answers no?"

11 He says: "Yes."

12 When they stop and they go to further redirect,
13 that's when they ask the question: Did the -- "Again, without
14 going into the conversation, did the conversation -- was it
02:38:38PM 15 rational to you?"

16 And he said: "No."

17 So, Your Honor will remember that I had
18 objected earlier because I knew that the use of the -- when
19 they asked about it being rational, it was only -- at that
02:38:50PM 20 point offered in a singular tense, although there are other
21 times when he says: Sometimes we didn't get the right
22 answers. Sometimes we did.

23 But there is nothing in here that gives a date
24 period of when that may have been occurring. That was Volume
02:39:06PM 25 20, 256 to about 260.

1 MR. RYTTING: May I, Your Honor?

2 THE COURT: Yes.

3 MR. RYTTING: There's every indication that this is
4 a description of his interaction with Mr. Aldridge and no
02:39:24PM 5 indication that he suddenly decompensated at the punishment
6 phase and that this suddenly came up. I don't see how the
7 record can plausibly be read to say that. He is talking in
8 general about his experience with -- in the attorney/client
9 interviews with Mr. Aldridge. And it was confirmed, I
02:39:44PM 10 believe, and the record will reflect it, by Mr. Davis'
11 recollection, that this is how the interaction with
12 Aldridge -- Mr. Aldridge went.

13 And it is confirmed, too, by his own specific
14 recollection of what Mr. Aldridge expressed; and that was this
02:40:09PM 15 delusional defense about people sexually assaulting him and
16 the victim sexually -- I mean, the victim sexually assaulting
17 him, and that was going to be his defense. It cannot be
18 cabined in any sensible way, nor can the affidavit be
19 considered in that sense to just punishment phase issue that
02:40:33PM 20 was sprung up at the spur of the moment.

21 MS. HAYES: One last question to Dr. Quijano.

22 THE COURT: All right.

23 BY MS. HAYES:

24 Q. When you answered that in your -- in the statement about
02:40:44PM 25 having -- about your conclusion on the testimony, did you read

1 the entire testimony at punishment when you offered that -- or
2 did the defense lawyer summarize the testimony for you when
3 you did the affidavit?

02:41:08PM 4 A. I don't recall, but I must have read it because that's a
5 pretty serious statement to make. My understanding of that
6 statement was that was the way Aldridge was all the time.

7 Q. Okay. So, you were here earlier when Mr. Davis testified
8 that that wasn't a consistent way of dealing with him.
9 Sometimes he would be okay and other times not. Were you here
02:41:26PM 10 when that -- maybe not that phrase but that temper of
11 testimony.

12 A. The way Mr. --

13 MR. RYTTING: I will object that that
14 mischaracterizes Mr. Davis' testimony.

02:41:38PM 15 THE COURT: Well, here's what I would like to do. I
16 would like to take about a 10-minute break. I would like the
17 doctor to read the trial testimony that we have of Mr. Bates,
18 and then I would like him to tell me whether or not that in
19 any way changes his opinion that he expressed here today. So,
20 let's take a 10-minute break.

21 Doctor, please review that testimony; and we'll
22 come back. Okay. Thank you.

23 (Recess)

24 THE COURT: All right. Has the doctor now had the
02:57:35PM 25 opportunity to review the testimony of Mr. Bates?

1 THE WITNESS: Yes.

2 THE COURT: All right. Based upon your review of
3 that testimony, is it your opinion that Mr. Aldridge was not
4 able to consult with his counsel with a rational degree of
02:57:53PM 5 understanding at his trial in 1990?

6 THE WITNESS: No, he would not be competent, given
7 that description, if that description is meant to describe
8 most of their interactions.

9 THE COURT: All right. So, your opinion would be
02:58:13PM 10 that he was not competent to stand trial?

11 THE WITNESS: If that kind of interaction was
12 characteristic of most of the interaction.

13 THE COURT: All right. Anybody want to ask any
14 follow-up questions?

02:58:27PM 15 MS. HAYES: Yes.

16 THE COURT: All right.

17 BY MS. HAYES:

18 Q. And if it was not characteristic of most interactions,
19 then your opinion would be?

02:58:33PM 20 A. Then you have to check when is he focused and when he is
21 not focused. If he is not focused when there are -- if he is
22 focused when they are on business matters versus just talking
23 or exploring, it makes a big difference. So, it has to be:
24 Was the mentally ill symptoms active during the business of
02:59:08PM 25 his defense?

1 Q. Was it your impression from Doug Davis' testimony that
2 most of the time he was focusable -- is that a word -- able to
3 be focused?

02:59:36PM 4 A. From the testimony of Mr. Davis this morning, he sounded
5 competent. From the written testimony, there was some --
6 sometimes, sometimes yes, sometimes no. But when he was asked
7 was he focused, we are talking about the crime itself, the
8 answer was yes.

9 MS. HAYES: Nothing further.

02:59:57PM 10 THE COURT: Okay.

11 MR. RYTTING: Just a couple of questions, Your
12 Honor.

13 **FURTHER REDIRECT EXAMINATION**

14 **BY MR. RYTTING:**

03:00:32PM 15 Q. When -- you were here when Mr. Davis -- I mean,
16 Mr. Douglas said that -- or Doug Davis -- when Doug Davis said
17 that the best -- probably the best evidence of the interaction
18 between the attorneys in this case and the nature of their
19 interaction was Mr. Bates' testimony and not his recollection,
03:00:56PM 20 were you not?

21 A. If that is the best evidence?

22 Q. That Doug Davis on the stand said -- acknowledged that
23 his recollection of what the interactions with Mr. Aldridge
24 was not the best evidence, that instead Mr. Bates'
03:01:15PM 25 contemporaneous testimony about the interactions with his

1 client was, in fact?

2 A. Then you have to go by that, yes.

3 Q. So, you go by that. I mean, as a forensic scientist,
4 that is what you would go by?

03:01:30PM 5 A. Yes. Because one is saying: I'm not sure, and this is
6 better than mine.

7 MR. RYTTING: No other questions.

8 THE COURT: Do you have anything else?

9 MS. HAYES: One more.

03:01:40PM 10 THE COURT: Sure. Go ahead.

11 **FURTHER RECROSS-EXAMINATION**

12 **BY MS. HAYES:**

13 Q. Of course, keeping in mind that this is being offered at
14 punishment, does that also end up affecting your opinion?

03:01:58PM 15 A. The way to offer the punishment evidence has to be -- the
16 color of the punishment evidence has to be -- has to be
17 considered well because in punishment you throw everything
18 that you think can help. I'm just -- well, if the -- okay.
19 There was no testimony other than punishment, right?

03:02:34PM 20 Q. Right.

21 A. Yeah.

22 MS. HAYES: Then nothing further.

23 THE COURT: One other question, Doctor. In your
24 professional opinion, is it possible to determine today
03:02:49PM 25 whether Mr. Aldridge was competent to stand trial in 1990?

03:03:17PM 1 THE WITNESS: No. You have to have agreed rules,
2 such as we would only make judgment on the basis of what we
3 can gather from that moment. And if you agree on that, then
4 you can; but it's not possible to interview him as if we were
5 still there.

6 THE COURT: But you did interview him.

7 THE WITNESS: Correct.

8 THE COURT: At that time.

9 THE WITNESS: Correct.

03:03:24PM 10 THE COURT: And you concluded at that time that he
11 was competent.

12 THE WITNESS: Correct.

13 THE COURT: But you have now concluded, based on
14 additional information, that he was not competent in 1990.

03:03:34PM 15 THE WITNESS: If you move to the trial period and
16 you introduce new data, yeah, you can make judgment like that,
17 yeah.

18 THE COURT: All right. Thank you.

19 Anything else?

03:03:44PM 20 MR. RYTTING: No further questions.

21 MS. HAYES: Okay. Nothing further, Your Honor.

22 THE COURT: All right. You may step down. Thank
23 you.

24 THE WITNESS: Thank you, Judge.

03:04:11PM 25 (Witness released)

1 THE COURT: All right. Who is your next witness?

2 MR. RYTTING: Dr. Jerome Brown.

3 THE COURT: All right. Dr. Brown.

4 (**JEROME BROWN, M.D.**, Petitioner's witness, Sworn.)

03:04:40PM 5 THE COURT: Thank you. If you'll have a seat in the
6 witness chair, Dr. Brown.

7 **DIRECT EXAMINATION**

8 **BY MR. RYTTING:**

9 Q. Dr. Brown, would you state your -- some of your
03:04:57PM 10 credentials and your background and your qualifications?

11 A. I'm a psychologist licensed by the State of Texas. I
12 have been practicing as a mental health professional for about
13 40 years. My practice now mainly involves forensic-type work
14 or courtroom-related work. However, I have also been a
03:05:23PM 15 professor at Baylor College of Medicine. I have a private
16 practice. I have been a senior member of the Harris County
17 Forensic Psychiatry Unit and have also provided
18 court-appointed mental health expert testimony in surrounding
19 counties and some states.

03:05:43PM 20 Q. And in 1995 you examined doctor -- on two occasions you
21 examined Mr. Aldridge.

22 A. That's correct.

23 Q. Once in January?

24 A. Correct.

03:05:59PM 25 Q. And once in March?

1 A. March, right.

2 Q. Did you bring those copies with you to the courtroom?

3 A. Yes.

4 Q. So, you have a copy to look at.

03:06:21PM 5 MR. RYTTING: And those would be our exhibits -- the
6 reports that you made would be our Exhibit No. 1, Your Honor.
7 That's from March 27th, 1995. And the other one is our
8 Exhibit No. 6, which is from January 31st of 1995.

9 BY MR. RYTTING:

03:06:47PM 10 Q. You were asked to evaluate Mr. Aldridge in January of
11 1995 by Judge Raines [phonetics]; is that correct?

12 A. That's correct.

13 Q. And at this stage of the proceedings, the question was
14 whether Mr. Aldridge was competent to -- the question that you
03:07:13PM 15 answered was whether at this point Mr. Aldridge would be
16 considered competent to stand trial, correct?

17 A. Correct.

18 Q. And your conclusion in 1995, at least, was -- was what?

19 A. He was not competent.

03:07:27PM 20 Q. And what was the basis of that conclusion?

21 A. The interview that I conducted revealed that he suffered
22 from a severe mental illness that significantly impaired his
23 ability to rationally and satisfactorily understand what was
24 taking place, as far as his legal proceedings.

03:07:46PM 25 Q. And how would you characterize his -- his explanation of

1 his legal circumstances?

2 A. Well, his explanation of the legal circumstances was
3 never able to be given without referring to the context of his
4 delusions. In other words, he could not understand his legal
03:08:14PM 5 situation other than in the broad context of his delusional
6 beliefs about those proceedings as well as the people in those
7 proceedings, including his own attorneys.

8 As a matter of fact, that's why he stated he
9 wanted to represent himself, which is the issue that brought
03:08:32PM 10 him back from prison to be seen by me. He was demanding that
11 he represent himself; and the reason was his attorneys were
12 unqualified or incompetent because they were part of the
13 conspiracy against him. So, he could not trust any attorney
14 that might be given to him to work with.

03:08:53PM 15 Q. And when you make this assessment about his competency to
16 stand trial, is it fair to say that you were very confident in
17 your conclusion?

18 A. Well, I don't think I would write a conclusion if I
19 wasn't confident about it. I would have to gather information
03:09:18PM 20 until I got to the place that I would feel confident.

21 Q. You've been in the courtroom while Dr. -- well, both Doug
22 Davis, Mr. Davis, and Mr. Quijano -- Dr. Quijano testified; is
23 that correct?

24 A. Yes.

03:09:52PM 25 Q. And you heard the -- and I take it you've reviewed the

1 report Dr. Quijano made in 1990; is that correct?

2 A. Yes.

3 Q. And were the -- is the -- were the results of that
4 clinical interview similar to the types of psychological
03:10:21PM 5 information that you gathered from Mr. Aldridge in 1995?

6 A. Very similar.

7 Q. And based on that -- and so, is it fair to say that if he
8 was exhibiting the same types of delusion beliefs and other
9 thought disorders that you -- in 1990 that you documented in
03:10:54PM 10 1995, is it reasonable to think he may not have been competent
11 at trial.

12 A. I think there's a very high probability that he would not
13 be competent at that time, also.

14 Q. And you actually examined Mr. Aldridge two times, did you
03:11:22PM 15 not?

16 A. Yes.

17 Q. You conducted two forensic interviews.

18 A. Right.

19 Q. Not forensic, two psychological interviews with him.

03:11:28PM 20 The second time you interviewed him, you came
21 to the conclusion not only that he was incompetent to stand
22 trial but that he met the standard for being incompetent to be
23 executed.

24 A. That's correct.

03:11:44PM 25 Q. Which is a very -- is it your understanding that's an

1 even higher threshold or even more difficult standard to
2 reach?

3 A. Yes. The standard is very, very conservative. The
4 Wainwright standard.

03:12:00PM 5 Q. And if I may, I will present -- I will approach with this
6 second -- this second forensic interview. And if you would
7 turn to page -- what would be page 3, the first full paragraph
8 where you talk about the mental status examination and what it
9 reveals.

03:12:54PM 10 And you state that "The defendant continues to
11 exhibit the same delusional ideation he has always exhibited
12 when seen by this examiner."

13 A. True.

14 Q. Okay. "And in this respect, he has not changed his
03:13:06PM 15 beliefs or his interpretation of why he is in his present
16 legal circumstance."

17 A. Yes.

18 Q. Now, you go on to acknowledge that he's well aware that
19 he's been convicted of capital murder and has been given the
03:13:20PM 20 death penalty. But then why does -- what was significant
21 about -- or let me put it this way: Why did that not tip the
22 scales for you towards the finding of competency either to
23 stand trial or to be executed?

24 A. Because his delusions lead him to interpret those
03:13:47PM 25 circumstances he finds himself in as part of a giant

03:14:11PM 1 conspiracy or plot that has been going on against him for many
2 years; and this is simply a continuation of the, let's say,
3 persecution that he has endured. And because of that, he does
4 not properly understand the reason why this sentence is to be
5 carried out against him. He has a different understanding as
6 to why; and because that understanding is psychotic and
7 delusional, it is irrational and unreasonable.

03:14:43PM 8 Q. And just the same question, the results of the interview
9 that Dr. Quijano conducted in 1990 and which you have heard in
10 this courtroom, again, they are similar in their nature and in
11 their content to what you observed in 1995. Is that fair to
12 say?

13 A. Yes, it is.

03:15:09PM 14 Q. Again, just to cross that T, it would be your opinion
15 based on the interview that Dr. Quijano conducted that
16 Mr. Aldridge was not competent to stand trial?

17 A. Well, based on what Dr. Quijano reported in his report, I
18 would not consider Mr. Aldridge competent at that stage.

19 MR. RYTTING: I have no further questions.

03:15:31PM 20 THE COURT: All right. Thank you.

21 Cross-examine?

22 MS. HAYES: Yes, Your Honor.

23 **CROSS-EXAMINATION**

24 **BY MS. HAYES:**

03:15:35PM 25 Q. Just to clarify, Dr. Brown, the first exam that you do of

03:15:57PM 1 Mr. Aldridge in January, '95, which is the Petitioner's
2 Exhibit 6, the question before the Court was whether he was
3 competent to waive counsel, right? I mean, he wasn't facing a
4 trial at that time. It was just whether he was competent to
5 waive counsel.

6 A. Right.

7 Q. Okay. The March one that you did, you were asked to
8 evaluate competency for execution. There wasn't an execution
9 date set, though, was there? The Court was just kind of
10 contemplating whether it was even a possibility.

11 A. Frankly, I don't know the context of the referral. We
12 do -- at that time the place I was working at would do the
13 evaluations on court order, and sometimes we don't know why
14 the Court order is issued specifically.

03:16:28PM 15 Q. When you saw him in 1995, how much -- or would you have
16 agree that -- strike that.

17 Would you agree that not every schizophrenic
18 has the same progressions of their disease?

19 A. Certainly.

03:16:50PM 20 Q. And that some actually progress more rapidly, others more
21 slowly; would you agree with that?

22 A. Yes, I would.

23 Q. Okay. How much more or less paranoid was Aldridge, say,
24 one year before you saw him?

03:17:03PM 25 A. I couldn't say.

1 Q. So, how about two years?

2 A. Same thing.

3 Q. So, when you see him in '95, you're reporting that he --
4 similar things to Dr. Quijano, but I guess we're sort of in
03:17:23PM 5 the position -- you reached a different conclusion from
6 Dr. Quijano than what he did five years earlier, correct?

7 A. I think I probably would; but, again, I can't -- I'm not
8 offering a competency evaluation opinion on Mr. Aldridge in
9 1990. I'm just saying what I've seen in Dr. Quijano's report
03:17:45PM 10 is very, very similar to what I saw in Mr. Aldridge.

11 Q. So, that is the extent of your opinion, is that it is
12 very similar kinds of results but you are, in fact, only
13 focused on what you offered in 1995.

14 A. That's all that I can really properly do, yes.

03:18:03PM 15 Q. Okay. I notice on -- one quick last question. In your
16 March 27th report, which is P1, Petitioner's 1, at page 3, the
17 first full paragraph says, "Mental status examination reveals
18 the defendant to be alert; well-oriented; able to communicate
19 his ideas in a straightforward, direct, and reasonably
03:18:28PM 20 intelligent fashion. There's no looseness, tangentiality or
21 any other signs of thought disorder."

22 A. Correct.

23 Q. And even with those good qualification -- I guess, for
24 lack of a better word -- good qualities, you still found that
03:18:45PM 25 he was not competent to stand -- to face execution?

1 A. That's right. In spite of those relatively intact
2 abilities, he was still too mentally ill.

3 Q. Okay. Were you aware -- I know you were here today when
4 we were talking about different testimony and what the records
03:19:09PM 5 show. Were you ever aware of all the information about how
6 Aldridge was functioning before he ever entered T.D.C.J.
7 custody on the capital offense?

8 A. No.

9 Q. Were you made aware of any of the statements that family
03:19:21PM 10 members made about what Mr. Aldridge related to them as the
11 reasons for his crime?

12 A. No.

13 Q. Were you provided any records other than Dr. Quijano's
14 report to consider about -- in offering your opinion today?

03:19:39PM 15 A. Only Dr. Quijano's affidavit. That was it. And the
16 report.

17 Q. Okay. When you said that the delusion led Mr. Aldridge
18 to interpret circumstances as being part of a plot, was he
19 still able to tell you the key operative facts of his crime;
03:20:10PM 20 for example, that he goes and he buys a gun a couple of days
21 before the murder?

22 A. I don't think we discussed that -- those kinds of
23 details --

24 Q. So, he --

03:20:20PM 25 A. -- about how he carried out the offense.

1 Q. Okay. So, when you make the comment in the '95 report
2 that his delusions are leading him to interpret circumstances
3 as part of a plot, that's what you are presented with in '95
4 but not necessarily what was presented back in 1990, correct?

03:20:49PM

5 I mean, there --

6 A. Well, setting aside what Dr. Quijano reported, no, I
7 don't have any other information about 1990.

8 Q. And Dr. Quijano's report, Petitioner's 8 -- well, let me
9 back up.

03:21:05PM

10 In your two reports, I believe there are
11 references to where Mr. Aldridge talks about having things --
12 that he is the victim of experiments or government
13 experiments?

14 A. Correct.

03:21:17PM

15 Q. Okay. And that he's an alchemist and sort of -- is
16 manipulating how everything is working?

17 A. True.

18 Q. And a sufi is also at fault for some of what is going on,
19 correct?

03:21:30PM

20 A. Correct.

21 Q. Okay. And then there's also talk in your two affidavits
22 about a conspiracy with the attorneys and sort of the whole
23 system at that point being against him, correct?

24 A. Right.

03:21:40PM

25 Q. Okay. Those are not really representative of

1 Dr. Quijano's report from five years earlier. You didn't see
2 a sufi or an alchemist mentioned with Dr. Quijano's report?

3 A. I don't think so.

03:21:59PM

4 Q. Okay. So, the types of delusions that he is having
5 are -- would you agree that they are changing over time?

6 A. They do sometimes, yes.

03:22:15PM

7 Q. Okay. And so, you -- in fact, when you interview him and
8 evaluate him in 1995, even though it is similar to what
9 Dr. Quijano did, it's still -- it's based on how he is
10 operating right now in '95 and is not necessarily indicative
11 of his true level of understanding back in 1990?

12 A. That's true.

13 Q. Okay.

14 MS. HAYES: Thank you. No further questions.

03:22:26PM

15 THE COURT: Any redirect?

16 MR. RYTTING: Just a couple of questions.

17 **REDIRECT EXAMINATION**

18 **BY MR. RYTTING:**

03:22:38PM

19 Q. The types of symptoms that Mr. Aldridge was exhibiting
20 were delusional and -- the types of delusions were similar,
21 were they not?

22 A. Very similar.

23 Q. The content might have changed somewhat?

03:22:56PM

24 A. Yeah. You often see that. That's -- but the basic
25 manner, let's call it, or the context or the general theme,

1 let's say, of the delusions remain relatively fixed usually.

2 Q. And judging from Dr. Quijano's interview, they were
3 fixed. They were pervasive. In his interview he calls it the
4 legal situation that he thought he faced at that time. Is
03:23:21PM 5 that fair to say?

6 A. It appears to be so, yes.

7 Q. And were you surprised, after reading the narrative
8 report of Dr. Quijano's conclusion based on his psychological
9 interview, that Mr. Aldridge was competent?

03:23:38PM 10 A. That surprised me, yes.

11 MR. RYTTING: No further questions.

12 THE COURT: All right. Anything else, Ms. Hayes?

13 MS. HAYES: One last question.

14 **RECROSS-EXAMINATION**

03:23:55PM 15 **BY MS. HAYES:**

16 Q. The idea about symptoms changing -- or symptoms being
17 delusional and the content sort of changes, that sort of idea,
18 is that the concept that people have been kicking around today
19 about waxing and waning?

03:24:05PM 20 A. No.

21 Q. Okay. If the severity of the illness or how Mr. Aldridge
22 is able to present himself, the description of that paragraph
23 that I read in the March '95 evaluation about reasonably
24 intelligent, conversations straightforward, direct, no
03:24:27PM 25 looseness, all that, that's not the same type of description

1 that Dr. Quijano is giving here with part of his evaluation,
2 is it?

3 A. No. I would say that -- I bet you -- well, I believe
4 that Dr. Quijano was seeing those same things with this man.

03:24:45PM 5 In other words, I think that this man is capable, when you are
6 not covering his delusional areas, of responding to you in a
7 fairly straightforward, articulate, and reasonably intelligent
8 fashion. You can, for example, talk about the weather; and he
9 would probably look like a regular guy.

03:25:03PM 10 Q. Now, when you are asking him about the role of the judge,
11 the role of the attorneys, the role of the appeal, you've
12 heard testimony he is able to answer all that, no problem.

13 A. I think he probably can.

14 Q. Okay.

03:25:16PM 15 MS. HAYES: Nothing further, Your Honor.

16 THE COURT: All right. Are we done?

17 **FURTHER REDIRECT EXAMINATION**

18 **BY MR. RYTTING:**

19 Q. Dr. Brown, when a patient such as Mr. Aldridge is
03:25:40PM 20 answering a question about the weather and responding to
21 everyday -- in a way it looks like everyday conversation, he
22 may very well be still actively hallucinating and delusional;
23 is that correct?

24 A. No. The delusions are there whether you are talking
03:26:01PM 25 about them or not.

1 Q. Thank you.

2 MR. RYTTING: No further questions.

3 THE COURT: All right. We're finished, I think.

4 Thank you, Doctor.

03:26:10PM 5 THE WITNESS: Thank you, Judge.

6 (Witness released)

7 THE COURT: All right. Who is your next witness?

8 MR. RYTTING: Gladys Aldridge, Your Honor.

9 THE COURT: All right.

03:27:33PM 10 When you get up there, would you please raise
11 your right hand and be sworn in as a witness?

12 (**GLADYS ALDRIDGE**, Petitioner's witness, Sworn.)

13 THE COURT: You may have a seat. Thank you.

14 **DIRECT EXAMINATION**

15 **BY MR. RYTTING:**

16 Q. Ms. Aldridge, would you identify yourself for the record?

17 A. Okay. Well, my name is Gladys Aldridge.

18 Q. How are you related to Mr. Aldridge?

19 A. He is my brother.

03:28:25PM 20 Q. Did you help raise Garfield?

21 A. Yes, I did.

22 Q. You are his oldest sister; is that correct?

23 A. Yes, I am.

24 Q. I would like you to start off with what you can remember
03:28:50PM 25 about -- let's just call it the early years with Mr. Aldridge

1 and what those were like for him and the family.

2 MS. HAYES: I object. The early years is pretty
3 broad. And I'm afraid it is getting more into like the
4 punishment issue about mitigation. If it can be narrowed.

03:29:14PM 5 THE COURT: What are you proposing he narrow it to?

6 MS. HAYES: It was the "early years" phrase, like
7 from childhood to -- I'm not sure.

8 THE COURT: All right.

9 MR. RYTTING: Childhood.

03:29:28PM 10 BY MR. RYTTING:

11 Q. Can you -- do you have any recollection or memories about
12 Mr. Aldridge's childhood and what that was like?

13 A. Okay. Well, sure. We had difficult times, you know; and
14 he did, too. Is there a specific question that you need to
03:29:47PM 15 ask me?

16 Q. No. What was the relationship with your mom like?

17 A. Okay. Our mother did not raise us. Our dad raised all
18 six of us.

19 Q. And did you notice anything about your mother that you
03:30:01PM 20 thought was unusual?

21 A. Okay. My mother?

22 Q. Yes.

23 A. Well, my mother -- when her and my dad separated, I was
24 in kindergarten. I was going into the first grade. So,
03:30:14PM 25 that's all that we knew about Mother, is that, you know, she

1 would get us ready to go to school and just everything and --
2 you know, and that she was Mother. And then I came home one
3 time from school -- I was in kindergarten -- and our mother
4 wasn't there anymore.

03:30:31PM 5 Q. Did you -- was there a time when you began -- you had
6 some questions or worries about whether your mom might not be
7 right in her head or might have some mental problems?

8 A. Okay. Well, the only thing that I know about Mom is
9 forced fed because I was very young. But the thing about it
03:31:03PM 10 is that when we know that Mom wasn't living with us anymore
11 after school because she was gone. But the thing about it is
12 that our father never told us anything about our mother's
13 mental state of mind. We began to learn things as we just
14 grew up.

03:31:19PM 15 Q. And what were some of those things?

16 A. Well, we never saw my mother again. And when we saw our
17 mother again, I was in elementary school. Okay. So, you
18 might want to just rephrase it so I can just see for example
19 because -- which things?

03:31:37PM 20 Now, our mother wasn't there for us; but our
21 daddy was. But we was raised by a nanny. She was living with
22 us in the home.

23 Q. What nanny was this? Do you remember what --

24 A. Yes. The first nanny was Ms. Ina Bess Griffin.

03:31:52PM 25 Q. And how did she treat Garfield?

1 A. Okay. Well, you know what? Ms. Ina Bess was very
2 strict, and she whooped all of us. That's understandable.
3 And Garfield, he caught whippings, too. Yes, he did. She was
4 kind of abusive now because I would know that because I was
03:32:13PM 5 raised by her and I have scars on me right today from some of
6 her whoopings.

7 Q. And how -- Garfield was -- he was a slight -- what we
8 call slight or slim, slender build, right?

9 A. Yes. He was always built that way.

03:32:35PM 10 Q. And kind of small?

11 A. Yes. Uh-huh.

12 Q. He had some older brothers, didn't he?

13 A. Yes, he did. He had two of them. It was our older
14 brother Terrol Aldridge and Holbert Lee Aldridge.

03:32:50PM 15 Q. And how did they get along?

16 A. Well, we all knew that our oldest brother Terrol -- that
17 he tried to like discipline us, you know; but as far as they
18 got along, Holbert Lee and Garfield had their indifferences
19 pretty regular. Holbert Lee was like a bully.

03:33:09PM 20 Q. Did he -- did he ever physically beat up Mr. Aldridge?

21 A. Who? Holbert Lee? Yes. They got into fights, and he
22 would jump on Garfield off and on. But, you know, when daddy
23 came home, I would tell him; and so, Holbert Lee would get a
24 whooping.

03:33:34PM 25 Q. Holbert Lee is spelled H-O-L -- it's Holbert, right?

1 A. Yes, it's Holbert.

2 Q. H-O-L-B-E-R-T?

3 A. Yes, it is.

4 Q. And the second -- his middle name is Lee; is that

03:33:43PM 5 correct?

6 A. Yes, it is.

7 Q. Okay. Just to make sure the record is clear.

8 I would like -- during -- when he was young up

9 until the time he was, say, 17, did you think there was

03:34:36PM 10 anything wrong with Mr. Aldridge?

11 A. Our father or --

12 Q. No. With Garfield.

13 A. Well, you know what? Garfield and Holbert Lee both got

14 in and out of trouble. And, see, Garfield -- he did his part

03:34:52PM 15 of being devious just like Holbert Lee did. And pretty

16 much -- that's pretty much how he and Holbert Lee got along.

17 But the most thing is that Garfield was mostly picked on all

18 the time, and not just by Holbert Lee but by other people in

19 the neighborhood because he was just short. So, they would

03:35:13PM 20 call him Shorty or call him different names.

21 Q. And at some point in time, Mr. Aldridge was arrested and

22 he was convicted of robbery and sent to prison; is that

23 correct?

24 A. Garfield?

03:35:28PM 25 Q. Garfield.

1 A. Yes, he was in January of 1990.

2 Q. You mean -- I'm talking about the robbery in 1970,
3 correct?

03:35:42PM

4 A. Okay. Now, the robbery is what you are speaking about
5 now?

6 Q. Yes.

7 A. Yes, he did. He got into some trouble with some more
8 boys, and they had robbed the place. And then that's when he
9 was sentenced to T.D.C. And he was 17.

03:35:51PM

10 Q. At some point when he was in T.D.C.J., did you visit him
11 while he was in prison?

12 A. Yes, I did.

13 Q. Okay.

14 A. All the time.

03:35:59PM

15 Q. When you visited him at first -- for the first couple of
16 years, what was it like? What were the visits like -- the
17 first few years.

18 A. Okay. Now, the first few years, he was okay. The first
19 few years. That was in the 70s. Because he left in the 70s.

03:36:18PM

20 But then when he got the injury that he had sustained while he
21 was incarcerated in the prison and the progress down through
22 the years and then his personality began to change.

23 Q. And how did you know that? And why did you say that?
24 What leads you to believe that his personality --

03:36:38PM

25 A. Okay. I -- because me and Garfield very close, very

1 close. Not only did I raise him, we are very close. And, so,
2 see, Garfield -- well, sometimes he would like forget things
3 or either he would have to question you more than once or
4 twice. And then I began to notice that he would complain of
03:37:03PM 5 headaches all the time, and he would rub his head. So, I
6 would tell it to daddy.

7 Q. And was there any time when Garfield -- when you visited
8 Garfield that he would act out or would exhibit --

9 A. Well, after the injury, when we visit Garfield, he would
03:37:24PM 10 act out all the time.

11 Q. When you say "act out," can you describe a little bit
12 what that means?

13 A. Well, he was hollering and screaming and talking loud;
14 and he was using profanity. And sometimes the guards had to
03:37:36PM 15 calm him down or either tell daddy and I that we would have to
16 go, unless he would maintain his behavior.

17 Q. And would he say what you would consider to be strange
18 things to you?

19 A. Well, of course, it was very strange. We all knew that.

03:37:56PM 20 Q. What are some of the examples that you recall?

21 A. It was so many. I know that some of the things that I
22 recall is when Garfield began to change into -- like Garfield,
23 after he was injured, there was a big difference. He was off
24 to himself a lot, and he wouldn't do a lot of communicating.
03:38:21PM 25 Garfield would not do that.

1 Q. He would not what?

2 A. Do a lot of communicating. I mean, this is with the
3 family or anyone else.

4 Q. But before he was glad to see you? Before his injury,
03:38:38PM 5 which is -- the injury you are talking about, I believe,
6 occurred in 1976.

7 A. Yes. That was his first injury to his skull. Yeah.
8 They told our father, the doctors, that another inch that it
9 would have killed him.

03:38:55PM 10 Q. Did you receive any letters from Garfield during this
11 time?

12 A. Yes, I did. Plenty.

13 Q. And this was in the 80s?

14 A. Yes, I did.

03:39:05PM 15 Q. What were those letters like?

16 A. Well, Garfield was talking about the Nazis, and he was
17 talking about people was after him. And he was talking about
18 that he had enemies and that they was trying to kill him. He
19 would get -- get rid of him. So, what I would do, I would
03:39:27PM 20 just ask Garfield, well, who was he talking about?

21 Q. And what would he respond?

22 A. And so he would say: Gladys, well, you know, they
23 standing here right now. But there was nobody there. So, at
24 one point when I got nervous, I had missed a couple of weeks
03:39:45PM 25 visiting him because it bothered me; and I told my father it

1 did.

2 Q. And would he write to your other sisters, Brenda and
3 Judy?

4 A. Oh, yes. He would write to me and Brenda. It is me and
03:40:00PM 5 Brenda that visit Garfield all those years in prison. It was
6 me and Brenda. It wasn't Judy.

7 Q. So, when you went to visit Garfield, did you go take the
8 bus down from, what, the Sears building downtown?

9 A. Yes, I did. Yes, I did.

03:40:20PM 10 Q. And go to the prison from there?

11 A. Yes, I did.

12 Q. With Brenda?

13 A. Yes.

14 Q. So, you told -- do you remember when Garfield got out of
03:41:03PM 15 prison?

16 A. Yes, I do, because he came to stay with me.

17 Q. And what happened when he came to stay with you? What
18 did you see?

19 A. Well, he knocked on the door and I opened it and he was
03:41:17PM 20 just standing there with his arms fold. And then when I told
21 him that he could stay with me and the kids, he did do that.

22 Q. How was he dressed?

23 A. Garfield had -- he had on his blue jeans and a shirt, and
24 he was real prompt. You know, he was always like -- like he
03:41:43PM 25 was in the military, like he would just stand tall. But

1 Garfield was mostly dressed like in just pants and a shirt.

2 Q. Did he have a turbine on? Do you recall?

3 A. Of course, he did. We all knew that. Yes, he did.

4 Because his bedroom was upstairs, because I live in a town

03:42:04PM 5 house; and, yes, he would wear his turbine all the time.

6 Q. And did he ever wear a white robe?

7 A. You know that was? That had something to do with part of

8 the Muslim religion, and that was his religion. So, he would

9 wear it. Yes, he would. Off and on, yes, he would.

03:42:32PM 10 Q. What was his room like?

11 A. Okay. Garfield room was immaculate clean. I mean, it

12 was a bed in there; but he didn't sleep in the bed because it

13 bother him. Garfield slept on the floor. And I asked: Well,

14 why wouldn't he just sleep in the bed that he would be more

03:42:54PM 15 comfortable? But he didn't. He was more distant, more quiet.

16 And Garfield was just like he wasn't there. We knew he was

17 there. But then he would complain to me about the Nazis and

18 these people was trying to kill him and that I was letting

19 them come into the room. And he would leave the house and

03:43:16PM 20 then he would come back to the house and then he would go

21 upstairs, he said, to pray.

22 Q. So, did he at some point accuse you of letting people

23 into his room?

24 A. Of course, he did that. As a matter of fact, I

03:43:37PM 25 thought -- I thought at first -- well, he wasn't real serious.

1 When I discovered he was serious, that's when I told Garfield:
2 I didn't let anybody in your room. I said: The kids don't
3 even go into the room.

03:43:52PM 4 But he said: Gladys, no. You opened the door
5 and let the Nazis and let other peoples come upstairs and go
6 into my bedroom.

7 And we got into a dispute about it, and I told
8 him that I would put a lock on the door if that would satisfy
9 him. But he said, no, that he didn't want a lock on the door.
03:44:11PM 10 But that's pretty much what he accused us of during this time,
11 well, especially me, period, you know.

12 Q. Was there -- did he have anything that was -- that he
13 prayed to in his room? Did he build anything, like an alter?

14 A. In the bedroom, no. All I know is that Garfield -- when
03:44:39PM 15 I went in the room one day -- I was curious. So, Garfield had
16 bowed down to his knees, and he had his hands in a praying
17 position with his head bowed. But he didn't have any
18 particular thing in his room that he -- you know, like an idol
19 or anything that he prayed at. His praying time was always
03:45:00PM 20 before sundown, and his praying was always before the sun
21 rose. And I asked him about that.

22 Q. In your statement you mention that when he was staying
23 with you, that Garfield had headaches a lot. Do you remember?

24 A. Yes, he did.

03:45:31PM 25 Q. And he also -- and he wore a back brace.

1 A. Yes, he did.

2 Q. Do you remember why he was -- why he was wearing that?

3 A. Well, yes. Because when he came home, he had made it
4 pretty clear to us that due to the injuries that he sustained

03:45:51PM 5 from some of the guards and the inmates, it messed up his neck
6 and back. And that's the reason that he had to wear the
7 braces.

8 Q. And at some point did -- well, did you notice any other
9 odd behavior, what you considered strange behavior, like

03:46:13PM 10 walking around at night and things like that?

11 A. Never did.

12 Q. Pardon me?

13 A. Well, yes, I do. As a matter of fact, he did that pretty
14 regular. You know what? See, Garfield would come down the

03:46:28PM 15 stairs; and the stairs would make a little squeak. This was
16 before Garfield came. But then you know what? Garfield
17 always walked down those stairs, and you would never know that
18 he was down the stairs. Because I was in the kitchen and I
19 was fixing to turn a light on and I jumped.

03:46:45PM 20 I said: Garfield, you scared me to death. I
21 didn't hear you coming.

22 And he stood there with his hands fold and
23 said: What are you doing, Gladys? Letting somebody in?

24 I said: No, Garfield. I was in here trying to
03:47:00PM 25 get a cup of coffee. But he scared me then.

1 Q. And did he scare your children?

2 A. Yes. Oh, they were very scared of Garfield. And that's
3 the reason why I told daddy that he would have to come and get
4 him because the kids was even scared to sleep in their own
03:47:17PM 5 rooms and they were scared of Garfield. And I'm their mother,
6 and a mother protects their children. So, my father came and
7 got Garfield.

8 Q. Now, what happened when he went and stayed with your
9 father?

03:47:30PM 10 A. Well, when he went to stay with Dad, he was saying that
11 he would hear noises under the house; and he said that the
12 Nazis was under the house and that they were coming out to get
13 him to kill him. And he would accuse Daddy and our stepmother
14 of letting certain ones in the house, in the room. And that's
03:47:59PM 15 when our daddy began to realize himself that something was
16 wrong with Garfield, and Garfield had to move from there.

17 Q. So, one more question about your mother, Gladys. It has
18 to do with page 1, paragraph 4, of your affidavit. I think
19 you have that.

03:49:00PM 20 You said that your mother sometimes talked and
21 laughed to herself and would carry on a long conversation to
22 herself. Do you remember that, your mother doing that?

23 A. Yeah. Could you repeat that?

24 Q. You said that sometimes your mother talked and laughed to
03:49:16PM 25 herself and --

1 A. Oh, yes. We all knew about that.

2 Q. And she would carry on long conversations with herself?

3 A. Yes. Yes, she would do that.

4 Q. And did you ever see her or hear her doing that?

03:49:29PM 5 A. Well, yes, we did. I did. All of us did. But then, you

6 know, we had to learn that Mother was like that way because

7 she had a nervous breakdown after she had Garfield. And so,

8 Mother stayed that way; and Mother never changed being that

9 way. And she was still that way when she died in January of

03:49:52PM 10 '05. It just got worse, but that's all. And I was the main

11 person -- I would stay with my mother because she was living

12 by herself.

13 Q. Did Garfield -- when he stayed with you, did he ever talk

14 about spirits and people molesting -- spirits molesting him at

03:50:23PM 15 all?

16 A. Of course he did. He would talk about spirits was in the

17 house and that spirits was all around us and that they was

18 coming to kill him. And he said that I was in on it.

19 THE REPORTER: I'm sorry. That you were?

03:50:44PM 20 THE COURT: Did you say that he said you were in on

21 it?

22 THE WITNESS: Yes. Yes, Your Honor.

23 BY MR. RYTTING:

24 Q. Gladys, I'm going to ask you a few questions about the

03:51:43PM 25 day -- or the -- that Ben Stone died and what happened. You

1 helped Garfield get to San Antonio on that day, didn't you?

2 A. Yes, we did. Because my son had encouraged me to bring
3 Garfield to San Antonio. Because he said that Garfield had
4 missed the bus or something and that he was my brother and
03:52:17PM 5 that we needed to drop him off in San Antonio.

6 Q. Okay. And there was some other things that happened
7 beforehand on that day. Do you recall any of that?

8 A. Okay. You are talking about the same day?

9 Q. Yes, the same day.

03:52:31PM 10 A. Okay. Well, Garfield came to my house about -- between
11 6:00 a.m. and 6:30 in the morning; and it was storming, a
12 hundred percent raining. And I opened the door to let him in.
13 When I looked up and saw it was him, Garfield was acting real
14 strange. Matter of fact, I went back to the bedroom to get
03:52:52PM 15 into the bed, he walked into the room and just stood like a
16 salute with his arms fold.

17 I said: "Garfield, what is wrong?"

18 So, he said: "Well, really, Gladys, it's
19 nothing. I was trying to see if you can get ahold of Terrol."

03:53:07PM 20 And Terrol was our oldest brother. And I kept
21 on trying all that day to get ahold to him on his job, but I
22 couldn't reach him.

23 Q. And then you made a number of trips in the car with
24 Garfield, did you not?

03:53:22PM 25 A. Who? Me?

1 Q. Yeah.

2 A. Oh, yes, I did. It was my car. As a matter of fact, I
3 had taken a sleeping pill; and after that he was driving my
4 car. And then when -- I woke up at one point, and then

03:53:40PM 5 Garfield -- he was driving my car. And I remember that we had
6 stopped off to get some gas, and I had went into the store to
7 make a collect call to call my kids and check on them.

8 Q. Here you are talking about going to San Antonio?

9 A. Yes.

03:53:59PM 10 Q. But beforehand did you go to a motel?

11 A. Yes. I dropped him off around the corner at a motel
12 because I was trying to find my oldest brother.

13 Q. Did you want him in the house?

14 A. Huh?

03:54:15PM 15 Q. You didn't want him in the house, did you?

16 A. Well, of course not, not then.

17 Q. And was -- did any of this make any sense to you?

18 A. Well, you know what? After the Garfield... again because
19 our oldest brother had explained to us that he was like

03:54:39PM 20 schizophrenic and that he going to have blackouts and things.

21 And so, therefore, in between the time that I left Garfield

22 and then I returned back home and then Garfield ended up

23 calling me. So, I couldn't get Garfield; but I know that

24 Garfield was acting very strange. I asked him what was wrong;

03:55:01PM 25 and he said nothing, that he just wanted me to call our oldest

1 brother.

2 Q. So, at one point when you are traveling back and forth
3 from the hotel, Garfield gets out and goes hides somewhere,
4 doesn't he?

03:55:14PM 5 A. You said he did what?

6 Q. Did he get out and go hide in the bushes somewhere?

7 A. Oh, you know what? I completely woke up, and we was at
8 some bus terminal in San Antonio. I was completely woke up
9 because it was late through the night. And that's when I

03:55:34PM 10 asked my son and my nephew: Where did Garfield go? And so,
11 then my son said: Mamma, I think something is wrong here; and
12 it has to do with Garfield.

13 Q. At this point was he ever talking with you, when he was
14 living with you, about going to a Muslim country or anything
03:55:57PM 15 like that?

16 A. Oh, of course. That's the reason I was trying to get
17 ahold of my brother Terrol.

18 Q. Is that -- that's what he was planning to do. That's
19 what he --

03:56:08PM 20 A. Yes, that's what he was planning to do. Yeah. He said
21 that people was after him and that he couldn't stay in this
22 country or stay in this same place and that he had wanted to
23 go over into the land to where Muslim be to where they can
24 feel free.

03:56:59PM 25 MR. RYTTING: I'll pass the witness, Your Honor.

1 THE COURT: All right. Thank you.

2 Cross-examination?

3 MS. HAYES: Please.

4 **CROSS-EXAMINATION**

03:57:05PM 5 **BY MS. HAYES:**

6 Q. Good afternoon.

7 A. Good afternoon.

8 Q. I'm Katherine Hayes with the Attorney General's office.

9 A. Okay.

03:57:09PM 10 Q. I just have a few questions about a couple of issues.

11 A. Okay.

12 Q. One thing, I know that you call him Garfield?

13 A. Yes.

14 Q. Garfield went to prison in 1972 when he had done a couple
03:57:27PM 15 of robberies. He robbed a meat packing company?

16 A. Yes, he did.

17 Q. Okay. And he also robbed a Monterey House, too, hadn't
18 he, within about a week or 10 days of each other?

19 A. Well, that's what -- well, that's what we heard. But,
03:57:39PM 20 see, I know about the first robbery. But the Monterey House,
21 we just heard; but we never knew Garfield really did that.

22 Q. Okay. And so, he is in prison in -- he's in prison in
23 1972 for those offenses.

24 A. Yes.

03:57:55PM 25 Q. And so, the hoe or ax injury that happens is while he is

1 in prison on those offenses?

2 A. Yes, it was.

3 Q. If the medical records showed that the accident actually
4 happens around 1976, does that sound about right? It was
03:58:10PM 5 about four years after he had been in prison.

6 A. Yes. Yes. Because it was in the 70s when it happened.

7 Q. Okay. And before he had gone to prison for those
8 robberies, he also had sort of a rather checkered past when he
9 was growing up. Didn't he get into a lot of trouble, too, as
03:58:34PM 10 he has been growing up?

11 A. Well, yes, he did.

12 Q. Okay. He has dependency complaints filed. Did you know
13 about any of those?

14 A. Well, yes. I knew that he did because he spoke about it.

03:58:48PM 15 Q. How about -- he had a burglary. He'd burglarized a
16 residence, too, when he was 14. Did you know he had done
17 that?

18 A. Well, what his friend said -- and I only knew that
19 because I observed that.

03:59:06PM 20 Q. And then there was, I think, a robbery of a -- or a
21 burglary of a drive-in grocery, too, that was probably about
22 the same year?

23 MR. RYTTING: I have an objection to relevancy, Your
24 Honor.

03:59:16PM 25 THE COURT: Sustained.

1 BY MS. HAYES:

2 Q. What I am curious about, Ms. Aldridge, is the first
3 times, I guess, that -- that you started to say he was acting
4 a little odd or acting different was after the head injury,
03:59:32PM 5 right?

6 A. Yes.

7 Q. He's already becoming -- doing -- getting into criminal
8 activity well before he's had the head injury.

9 A. Well, yes, he did. And my brother did, yes.

03:59:46PM 10 Q. Now, when he was out before the capital murder happens,
11 he was working at the McDonald's, right? Were you still in
12 touch with him much when he was working at the McDonald's?

13 A. The first McDonald's, me and him did. That was on
14 Tidwell and Shepherd.

04:00:06PM 15 Q. Okay. Do you know how many he ended up working at?

16 A. Well, it was that one; and then I learned later on that
17 when he moved from the north side, that was because one of our
18 siblings, Holbert Lee, kept on messing with him. And so, he
19 moved to the north side -- the south side. And then we

04:00:25PM 20 learned that he was at McDonald's over there.

21 Q. And at that point is he living on his own, in his own
22 apartment?

23 A. Yes, he was.

24 Q. Okay. Did you know whether he had a bank account when he
04:00:39PM 25 was working at McDonald's?

1 A. No, I do not know that.

2 Q. When this capital crime happened, when he was trying to
3 leave the Houston area, were you ever told by him that he
4 needed cash and you could have his Pulse card so you could get
04:00:56PM 5 money out of his account if you needed to?

6 A. No. That's not true. No.

7 Q. Okay. Did he have a car?

8 A. No, Garfield did not have a car because he rode a
9 bicycle.

04:01:05PM 10 Q. Okay. Do you know if he ever had a car?

11 A. No.

12 Q. No, you don't know; or no, he didn't have a car?

13 A. No, he did not have a car.

14 Q. Okay. Did you know that he had been in a lawsuit where
04:01:18PM 15 he managed to sue somebody in court and represent himself?

16 A. Well, we just really heard about that. Well, the family,
17 we just heard about. And then, too, Garfield had said it; but
18 we didn't know just what type of a lawsuit. But I knew that
19 he was suing somebody.

04:01:37PM 20 Q. When he was in prison in -- for the -- for all the
21 robberies back in the '72 offense that he got 16 years for, he
22 wrote letters to y'all, right, when he was in prison?

23 A. Yes, he did.

24 Q. Could you tell that when he was in prison, that he
04:02:05PM 25 started to convert and become a Muslim while he was in prison?

1 A. Yes, he did.

2 Q. And did he take that -- seem to take that very seriously?

3 A. Oh, yes, he did.

4 Q. And was Eddie Ford, also -- he was a Muslim, too, wasn't
04:02:20PM 5 he?

6 A. Yes, he was.

7 Q. And so, they could -- could they talk Arabic together
8 or -- someone had said that in one of the reports they would
9 talk together so that they understood each other. Were you

04:02:32PM 10 ever around them when they would be talking in --

11 A. Only briefly. Edward Ford was a character. He was
12 speaking briefly with Garfield because we didn't know that
13 Garfield spoke it until Edward Ford started speaking it.

14 Q. Did you know that back at the time of trial, there were
04:02:54PM 15 some family members that came; like Brenda, your sister, and,
16 I guess, Cheryl and Virginia came to testify?

17 A. Yeah. That was my daughters.

18 Q. Okay. And I know each of them gave opinions that nobody
19 had thought about getting any kind of professional help for
04:03:11PM 20 Garfield. Was that -- was that something y'all ever thought
21 about, that he ever was so mentally ill he might need some
22 assistance or some help?

23 A. Well, we didn't. Because when Garfield got injured in
24 the prison system, well, he came home injured that away; and
04:03:28PM 25 his mind was already that way. And he had served almost

1 14 years, and he came home that way.

2 Q. So, when he got out of prison, did y'all ever try to get
3 anybody to see him for mental health reasons or to help out
4 with any mental health reasons?

04:03:46PM 5 A. No, that we did not do. Huh-uh.

6 Q. Now, when the crime ends up happening, when he ends up
7 killing the manager at the McDonald's, you said he shows up at
8 your place really early that morning; is that right?

9 A. Yes, he did.

04:04:02PM 10 Q. I know you said twice he was acting very strange.

11 What --

12 A. Yes.

13 Q. What was he doing?

14 A. He was just standing with his arms folded, and he was
04:04:13PM 15 just telling me -- and I was asking him what was wrong. So,
16 he says: Gladys, nothing. I want to get ahold of Terrol.
17 And that was our oldest brother.

18 Q. Okay. And what about that was strange?

19 A. Okay. Well, Garfield began to pace the floor back and
04:04:33PM 20 forth. He did.

21 Q. Okay. Did he seem upset? Did he seem --

22 A. No. That's it. Garfield wasn't upset. He was just --
23 you know, he was just calm. Because, see, Garfield never had
24 too much to say to none of us.

04:04:54PM 25 Q. So, right after the crime, you said at one point that he

1 is driving your car -- or you woke up once, and he was driving
2 on the way to San Antonio.

3 A. Yes. I woke up, and he was driving.

04:05:11PM 4 Q. Okay. And was he also driving when y'all headed over to
5 the apartment to go get the passport and the money and --

6 A. No. Garfield was not with us. That was Edward, Jr.
7 Garfield was back at the motel.

8 Q. Okay. So, was there a time that Garfield got out of the
9 car and hid behind bushes while people went into the
04:05:32PM 10 apartment?

11 A. No. No. Because Garfield was dropped off at that motel.

12 Q. Okay.

13 A. Up on the north side.

14 Q. So, if -- I know it's been a long time. It's 19 years.

04:05:55PM 15 A. Yes. Uh-huh.

16 Q. Would you agree that the statements that you made to the
17 police when you were actually arrested for your role in trying
18 to help Garfield get away from Houston, that that would
19 probably also help kind of document a timeline of things that
04:06:10PM 20 are going on with Garfield right after the crime?

21 A. Well, you know what? We didn't even suspect that
22 Garfield had done anything. I didn't even pick up on anything
23 that he had done. And we didn't even know anything about
24 that. I didn't.

04:06:27PM 25 Q. Okay. So, you didn't hear Garfield tell Eddie Ford that

1 he committed a robbery or that he had shot someone?

2 A. Oh, Lord, no. Huh-uh.

3 Q. How about -- did you ever ask him if he had done
4 something -- that he had done something that he couldn't
04:06:50PM 5 reverse?

6 A. No. No. We never talked about that.

7 Q. Okay. If your police statement, which is in
8 Exhibit 17 -- it's the HPD records, 282 through 283. If the
9 police records show that you asked him something about what
04:07:09PM 10 has he done and he was responding: If I did something, they
11 deserved it, would that be an accurate statement?

12 A. Well, you know what? In that police report statement, I
13 asked Garfield myself was something wrong; and he said no.

14 Q. Okay. And, in fact, if in your statement to the
15 police --

16 A. Yes.

17 Q. -- page 282, where you said that he told you he didn't
18 want any of his family to know anything about what he'd done
19 because it would be better for us, would that sound correct?

04:07:47PM 20 A. Well, you know what? Now, what are you specifying? I
21 mean -- okay. Rephrase that, please.

22 Q. Did Garfield tell you that on that morning, that he
23 didn't want any of you to know anything about what he had done
24 because it would be better for y'all?

04:08:02PM 25 A. Oh, Lord, no. Because we didn't know nothing.

1 Q. Okay.

2 A. I didn't even know anything, and I opened the door.

3 Q. Okay. That hasn't always been your testimony, has it?

4 MR. RYTTING: Your Honor, I would ask that she lay a

04:08:18PM 5 foundation. Could she maybe show the witness what that

6 statement --

7 THE COURT: I think that's where she's headed.

8 Go ahead.

9 MS. HAYES: Thank you. May I approach, Your Honor?

04:08:27PM 10 THE COURT: You may.

11 THE WITNESS: I need my eyeglasses.

12 BY MS. HAYES:

13 Q. I am showing Respondent's Exhibit 17, pages 282?

14 A. I wear eyeglasses.

04:08:44PM 15 Q. Oh, okay. I have a magnifying glass.

16 A. Oh, okay. That will work.

17 THE COURT: She's got her glasses.

18 MS. HAYES: I've got a magnifying glass.

19 A. I am going to use my eyeglasses.

04:09:22PM 20 BY MS. HAYES:

21 Q. What I would like to show you is this square that I have

22 marked here in red. Would you agree if I am reading this

23 correctly: "Garfield first told me that he did not want any

24 of the family to know anything about what he had done because

04:09:36PM 25 it would be better for us"?

04:09:56PM 1 A. It's there. Okay. I see what the statement says. But
2 when it gets to the point to where he said Garfield first told
3 me that he did not want any of the family to know anything
4 about what he had done because it will be better for them,
5 what Garfield stated was that nothing was wrong. And I just
6 had to reply back to Garfield was something wrong.

7 And right here to where he said, well, because
8 it would be better for us, what Garfield was saying to me and
9 what he said here: No, because it has nothing to do with
04:10:21PM 10 anyone else. And so, he was saying that it was none of my
11 business, basically, and that he was okay. And then he
12 started talking -- random talking again.

13 Q. Okay. So, the comment about that it would be better for
14 us was -- yeah. If you'd look at that part again.

04:10:39PM 15 A. It would be better for us that we did not know anything?

16 Q. Uh-huh. Page 282, probably right underneath the intro
17 paragraph.

18 A. You know what? Garfield said -- it says that Garfield
19 told me -- okay. What Garfield told me is that he didn't want
04:11:09PM 20 any of the family in his business. That's what he was talking
21 about. He said he wanted me to get ahold of Terrol. And so,
22 when they put this statement down here that he had -- that he
23 had done because it would be better for us all. Okay. Now,
24 what had happened here, what I said -- I said and they put it
04:11:32PM 25 their way: Garfield and Edward Ford had gotten into it that

1 same morning.

2 Q. That same morning he, Garfield, and Eddie Ford had gotten
3 into it?

4 A. Yes, they did.

04:11:45PM 5 Q. Okay.

6 A. Uh-huh. They did. Then this one I remember where it
7 says -- where Garfield first told me that he did not want any
8 of the family to know anything about what he had done because
9 it would be better for us, Garfield was saying to Edward, Jr.,

04:12:04PM 10 because they had gotten into it, is that if he knew -- well,
11 Edward, Jr., had asked Garfield what was wrong; and me -- I
12 caught the end of it. Uh-huh. I did.

13 Q. So, you caught the end --

14 A. Yes, I did.

04:12:19PM 15 Q. -- of Eddie Ford asking Garfield what had happened?

16 A. Yeah, had asked, you know, was anything wrong or did he
17 do something.

18 Q. Okay.

19 A. Uh-huh. Now that I remember.

04:12:28PM 20 Q. Okay. Do you remember what the response was? What did
21 Garfield say? That was the response?

22 A. Okay. Garfield stated to Edward Ford that it was none of
23 his business.

24 Q. Okay. But that's not written in that statement.

04:12:46PM 25 A. Okay. That's what I am looking at here. Statements can

1 be put the way they want to be put when some peoples do this.
2 Now, Garfield told me that he did not want any of the
3 family -- any of the family to know anything about what he had
4 done.

04:13:05PM 5 MR. RYTTING: Your Honor, may I -- sorry to
6 interrupt. But do you have another copy of that statement?
7 We have -- we don't have any of these exhibits.

8 MS. HAYES: It is in the -- it is the giant box
9 of --

04:13:31PM 10 MR. RYTTING: Do you have another copy? Is this the
11 first statement that you're talking about?

12 MS. HAYES: It's her second statement to police.
13 Her two statements to the HPD are at 278.

14 MR. RYTTING: Is this a police report?

04:13:45PM 15 MS. HAYES: Her signed statements to police when she
16 was arrested. The first statement is pages 278 to 280, and I
17 am asking her about 281 or 282.

18 THE COURT: How much longer do you think you are
19 going to be with this witness?

04:14:04PM 20 MS. HAYES: I think I've pretty much got the answer
21 on that. Maybe less than five minutes.

22 BY MS. HAYES:

23 Q. Okay. Let me go ahead and move on to something else,
24 then. Thank you.

04:14:15PM 25 On the morning that Garfield is there in your

1 apartment, did there come a time when you found out that
2 Garfield's -- that Eddie Ford had taken Garfield's gun?

3 A. Now, all I know about that is that -- that was an
4 argument that had went on, and all I know is that Garfield had
04:14:42PM 5 called from the motel room. He said that Eddie Ford had taken
6 something that belongs to him.

7 And so, I asked him what was it.

8 So, he said: Just tell Eddie Ford to bring
9 back what he had taken. But, see, I didn't actually see it,
04:15:01PM 10 the gun or know what it was. But, see, Eddie Ford did.

11 Q. Okay. So, it is your testimony today that Garfield told
12 you that he was looking for something; but Garfield never told
13 you he was looking for the gun that Eddie Ford took from you?

14 A. Was Garfield looking for the gun? No. Garfield told me
04:15:22PM 15 on the telephone -- he said that Eddie Ford had went in to his
16 duffel bag and that he had taken something out of the bag and
17 that he wanted it back.

18 Q. Okay. So, are you -- you're testifying today that he
19 never told you it was his gun that had been taken out of the
04:15:41PM 20 bag. Is that what you are saying today?

21 A. That's what I am saying today. Because, see, the part
22 about the gun, that came up like when we was out of town.
23 But, also, Eddie Ford -- his wife had told me he had brought
24 something in the house in a box. Yeah, she did.

04:16:10PM 25 Q. I've got to do it again.

1 MS. HAYES: May I approach?

2 THE COURT: You may.

3 MS. HAYES: All right. It's still HPD 282.

4 BY MS. HAYES:

04:16:24PM 5 Q. I've got it right here. It is the last paragraph on page
6 282, and it starts here -- would you agree I'm reading this
7 right -- "After we let Garfield out at the Olympic Motel, I
8 called him later that day. He told me that he was looking for
9 Edward, Jr., because Edward, Jr., had taken his gun out of his
04:16:47PM 10 gym bag. I then went" -- and then you go on and tell about
11 going to recover the weapon.

12 But then do you remember giving Garfield back
13 the gun, taking the gun to go give it back to Garfield?

14 A. No. You know what? I didn't take the gun back. What it
04:17:09PM 15 was -- what was in the box, it was stating it was a gun. But,
16 see, that's when my son came in at. He followed me and I gave
17 the box to my son and he took it to the motel.

18 Q. Okay. So, you and James went back to the motel with a
19 box that you knew now had a gun in it to go give it back to --

04:17:31PM 20 A. No. See, me and James didn't go back to the motel. My
21 son came back home and my son got the box and he took it to
22 the motel himself. And he told me that he would take it from
23 there.

24 Q. Good enough.

04:18:14PM 25 MS. HAYES: Nothing further, Your Honor.

1 THE COURT: Thank you.

2 Any redirect?

3 MR. RYTTING: No, Your Honor.

4 THE COURT: All right. Thank you. You may step

04:18:23PM 5 down, Ms. Aldridge.

6 THE WITNESS: Thank you, sir.

7 (Witness released)

8 THE COURT: All right. I think that should wrap it

9 up for today. We will start back at 9:00 o'clock in the

04:18:33PM 10 morning. So, I will see everyone here at 9:00.

11 (Proceedings concluded for the day)

12 * * *

13 I certify that the foregoing is a correct transcript from the
14 record of proceedings in the above-entitled cause, to the best
of my ability.

15

16 //s
Stephanie Kay Carlisle-Neisser CSR, RPR
17 Official Court Reporter

12/03/2009
Date

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